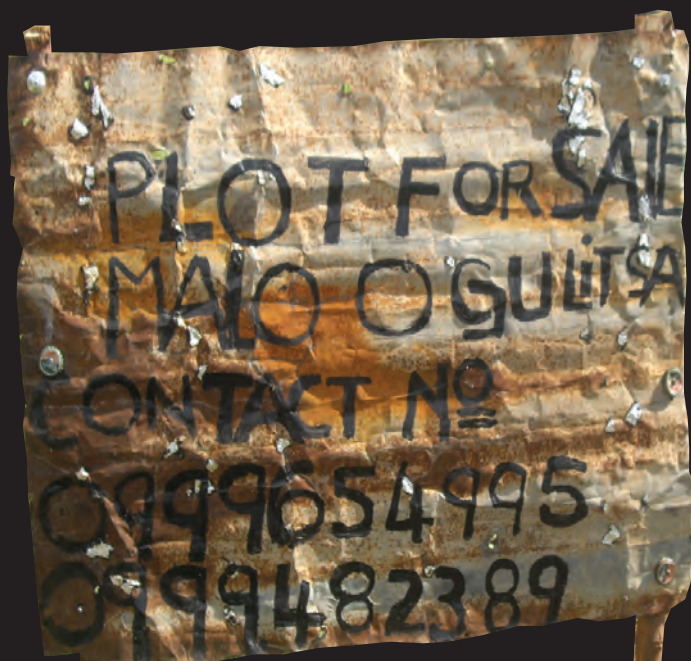


PERI-URBAN LAND TRANSACTIONS

Everyday Practices and Relations in
Peri-urban Blantyre, Malawi

IGNASIO MALIZANI JIMU



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Peri-urban Land Transactions Everyday Practices and Relations in Peri-urban Blantyre, Malawi

Ignasio Malizani Jimu



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Dedication

To my parents

John Jimu Kumbwani and Maria Luka Maganga

Abstract

This book tells a story of changing land relations in the peri-urban villages of Blantyre in Malawi. It questions and debates how and why the peri-urban villages have become the locus of the selling and buying of customary land, the practices and also the relations that are involved. The empirical chapters deal with the commodification of land relations, custom(s) and practices, disputes and dispute resolution, intermediaries, and the socioeconomic relations that are implicated. My approach draws on the actor oriented perspective and the notion of agency. Central to my analysis are the social practices, relations and meanings that the land sellers (ordinary villagers), land buyers (mainly from the city), traditional leaders (mainly village headmen), and intermediaries (estate agents) play. In a general sense, the transactions relate to the growing peri-urbanization and monetization of social relations, both of which push towards land decisions at family and individual levels. Bigger groups like the village, clan or extended family have minimal, if not symbolic role only. Village headmen benefit materially by taking gifts (signing fee) rationalized by custom(s) on reciprocity, while estate agents claim commission. Numerous constraints are negotiated about the ownership, rights to sale, multiple selling and the use and sharing of the land money. Some land sellers pursue different investment opportunities. For these reasons peri-urban land transactions offer scope for examining wider social and economic relations, and subtle ways the state infiltrates into actors' everyday life. There are multiple realities to it. The possibility of acquiring genuine but otherwise illegitimate motor vehicle driver's licence and lacklustre provision of services (land, housing and health) by the state explain in part the selling and buying of peri-urban land. Some buyers take advantage of the legal framework. The ease with which leasing of land can be achieved, notwithstanding delays and payment of formal and informal fees that signals informalization of state procedures and practices, is co-present in the practices. Unscrupulous buyers intimidate less informed villagers with legal suits, and money earned in relation to signing fees contribute to the rise in disputes over land and over traditional leadership position, at least at the peri-urban village level. Overtime, the practices reproduce but also transform land relations in significant but less appreciated ways, which this study brings out.

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Acronyms and abbreviations

AIDS	Acquired Immunodeficiency Syndrome
BCA	Blantyre City Assembly
BG	Beneficiary Group
CAMA	Consumer Association of Malawi
CBRLDP	Community Based Rural Land Development Project
CHH	Child Headed Household
CHRR	Centre for Human Rights and Rehabilitation
CLCB Peace	Conduct Likely to Cause Breach of Peace
COF	Certificate of Fitness
CPR	Common Property Resource
DC	District Commissioner
ESCOM	Electricity Supply Corporation of Malawi
FHH	Female Headed Household
GDP	Gross Domestic Product
GVH	Group Village Headman/woman
HDI	Human Development Index
HIV	Human Immunodeficiency Virus
IBR	Inverted Box Ridge
K	Kwacha (Malawi's currency)

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MDF	Malawi Defence Forces
MEGS	Malawi Economic Growth strategy
MGDS	Malawi Growth Development Strategy
MHC	Malawi Housing Corporation
MLS	Malawi Law Society
MOAM	Minibus Owners Association of Malawi
MPRS	Malawi Poverty Reduction Strategy
NGO	Non-Government Organization
PPP	Purchasing Power Parity
RTD	Road Traffic Directorate
T/A	Traditional Authority (the chief)
UNCHS	United Nations Centre for Human Settlements
UDF	United Democratic Front
VH	Village Headman/woman
VSU	Victim Support Unit

Note on the Malawi currency (Malawi Kwacha – MwK)

The value of the Malawi Kwacha (MwK) varied during the period under consideration. In 2009 the K1 was equivalent to US\$ 0.00714, making K140 equal to US\$ 1. In 2010 the value of the Malawi Kwacha sank to the level of K153 equal to US\$ 1. Instead of the conventional **MwK**, I have chosen to use the short form of **K**.

Glossary

Chichewa – English Terms

<i>bwalo</i>	courtyard
<i>bwana</i>	boss
<i>chapabwalo</i>	fee for appearing before the courtyard
<i>chigamulo</i>	judgment
<i>chilundu</i>	piece of clothe
<i>chitengwa</i>	practice of virilocal post-marital residence
<i>chitukuko</i>	development
<i>chizimba</i>	activating agent in traditional medicine
<i>dambo</i>	wetland or water meadow or watery marsh
<i>dimba</i>	garden near water wetland or irrigated garden
<i>dobadoba</i>	middleman or agent
<i>dziko</i>	country or territory of a chief
<i>ganyu</i>	piece wok
<i>kaunjika</i>	secondhand or used clothes
<i>kboti</i>	court (headquarters of the chief/traditional authority)
<i>kuwoloka</i>	virilocal residence
<i>mabwana</i>	bosses
<i>makolo</i>	parents/ ancestors
<i>malo</i>	land, space, field, garden
<i>malodza</i>	unpleasant or evil tidings, bewitchment
<i>manda</i>	grave, graveyard, cemetery
<i>mbadwa</i>	descendant of first settlers, autochthones
<i>mboni</i>	witness, one who sees
<i>mbumba</i>	lineage or descent group (see <i>mtundu</i>)
<i>mfiti</i>	witch or wizard
<i>mfumu</i>	chief or traditional leader
<i>miyambo</i>	customs
<i>mizimu</i>	ancestral spirits (see <i>mbalale</i>)
<i>mkamvini</i>	son-in-law, husband in uxorilocal residence
<i>mkamwani</i>	affinal woman in virilocal residence
<i>mlowamalo</i>	successor
<i>mtundu</i>	lineage or descent group (see <i>mbumba</i>)
<i>mudzi</i>	village

<i>mwini mbumba</i>	warden of the sorority group
<i>nduna</i>	counselor (minister)
<i>nsima</i>	porridge made using maize flour (staple food)
<i>nsudzulo</i>	release or divorce
<i>nyakwawa</i>	village headman
<i>obwera / okhala nawo</i>	stranger
<i>opempha malo</i>	those who obtain land by begging (see <i>obwera</i>)
<i>tauni</i>	town
<i>umphawi</i>	poverty
<i>wogula</i>	buyer
<i>wogulitsa</i>	seller
<i>wokhwima</i>	sorcerer (see <i>mfiti</i>)
<i>ziphuphu</i>	bribes

Issues and questions in peri-urban land transactions

The land question in Africa continues to be a hot topic with significant but also enduring impact on the content and direction of socioeconomic change. As Meur and Lund (2005) rightly pointed out in relation to the governance of land in Africa, the land question is almost omnipresent in social, political and economic debates. What emerges in most recent debates on land is that access to and the use one can make of land is not just to produce material survival or enrichment (Cotula et al 2009; Deininger et al 2011; Moyo 2010; Zoomers 2010). Other aspects however, include gaining power and meaning, which relate to the definition of personal and social identities. Hence, political, economic, and cultural issues, a triangulation that draws on human ambitions of power, wealth, and meaning (Shipton and Goheen 1992:307), have always been integrated in discussions on land in Africa and beyond. It would therefore be expected that wherever land is an object of discussion, the discussion should be riddled with contradictions and ambiguities given that access and control over land touch the lives, livelihoods and life chances of a significant proportion of a people dependent on land for material and sociocultural reproduction. It is for this reason land, including different tenure forms, is also often regarded as sacred, although its sacredness is increasingly being challenged as more people are locating it within the realm of commodities, more especially in peri-urban contexts.

At this stage, it is also worth mentioning that land tenure transformations have occupied scholarly, anthropological interest in particular, for several decades now (cf. Peters 2002; 2007). It also merits emphasizing that land and land resources tenure in particular were part of the imperial project, the partition and colonial settlement in Africa, and also the freedom struggle leading to independence in a good many African states (cf. Cross 2002; Moyo 2010). For this reason, as Christian Lund also writes, land issues are in fact not new in Africa:

The land tenure situation has always been undergoing change in response to demographic and technological changes, wars, conquests and changes in governance. Moreover, land has been an object of policy intervention from colonial times to the present, and every spot of land in Africa has a history of changing land policies and different forms of land politics. Any new policy and related research must therefore take previous policies and their effects into account. (Lund 2011:8)

The subject of land tenure change assumed great significance in the early years of colonial rule because land and the dwellings on it became important as sites of economic enterprise. Writing about the changing meaning of land in Lagos between 1760 and 1900, which applies well to the scenario and focus of this book, Mann (2007) observed that on top of the traditional use values, land and housing eventually acquired important functions such as collateral for commercial and other credit, a source of rental income, and an object of speculative investment over and above the 'traditional' values of it being a place of domestic shelter, and centre of individual and family religious, social, and political activity. Apparently, the new opportunities emerged first within the town but over time spread to rural areas, thereby stimulating the scramble for land and landed property, which also led to dramatic increase in the value of land and demand for title for land. Similar trajectories were noted in other parts of Africa, including Malawi, with varying degrees of intensity. The exception being the case of the island of Zanzibar in east Africa where as Scholz (2002) demonstrates land tenure rules evolved over a period of one thousand years following successive waves of migrants and shifts in political control leading also to what he refers to as land tenure confused.

The confusion as reported for Zanzibar is to be seen in scholarly attention on land throughout Africa. A point often missed in everyday discourse on land is that scholarly attention on the land issue has progressed if not just mutated significantly over time (Lund 2011). In the 1950s and later, focus was on the colonial and post-colonial administrations' injudicious attempts to clarify or code, modernize and change customary tenure.¹ In the

¹ For southern Africa, Max Gluckman and the Manchester School among others, shaped the discourse on land by focusing on the political economic fundamentals in societies (see Peters 2002).

1980s partly in response to the discussion on the agricultural crisis² land tenure reform became a central policy issue. Since then discourses have highlighted the deficiency of old assumptions, for example, about the existence of plentiful land in Africa, and some scholars have also questioned efforts to make land accessible to all through land reform (Haugerud 1989; Peters 2002, 2004, 2007). More recent attention has turned to large scale foreign land acquisitions, “the foreignisation of space” (Zoomers 2010) or “global land grab” (Borras and Franco 2010), especially that pursued with the sole intention of producing food and biofuels for the export markets in response to soaring global food and fuel prices (Cotula et al 2009; Zoomers 2010). An interesting contradiction in the emerging narrative is that wherever these foreign land acquisitions are taking place, same old questions are being raised about land rights and land tenure security of local populations for whom access to land has been an essential component of livelihoods, spiritual traditions and for quite many identity. In a general sense, the questions reflect the fear informed by historical precedents. Many local populations might endure forced eviction or involuntary relocation to make way for plantations or exploited as labourers and out-growers (Deininger et al 2011).³ For southern Africa, such a scenario is dreaded on the basis of historical and contemporary experiences which include recent interests in land restitution in South Africa (James 2007b) and the land question, governance and sovereignty issues in Zimbabwe (Moyo 2010). For Malawi, one of the land scarce countries with greater economic and demographic

² A general discussion is available in Berry 1984; Binswanger and Townsend (2000). The difficulty has been to locate the source of the problem, that is, whether the ‘crisis’ is a result of lagging or insufficient agricultural production or whether it is part of a larger crisis of economic management, also associated with deficits in balance of payments, foreign indebtedness, inflation, corruption, and waste.

³ Deininger et al (2011) names Ethiopia, Mozambique, and Sudan as some of the African countries earmarked by major transnational corporations for land acquisition. Other countries that also mentioned are Madagascar, Tanzania, Zambia and Malawi. In 2009, 45 million hectares of land were sold compared to 4 million per year over the previous decade, an increase of 1025%. Major foreign players are Chinese, Indian and Saudi firms. The unrest in Madagascar (military coup) suggests that accelerated competition for land could lead to political turmoil. In Tanzania the government has been accused of threatening local peoples’ livelihood by allocating land to big commercial farmers, including foreigners. In apparent opposition one white farmer was in 2011 killed using spears, machetes and clubs (see BBC World News, ‘Tanzanians hack farmer in Manyara to death in land row’, 2 June 2011. <http://www.bbc.co.uk/news/world-africa-13630593>)

attachments to South Africa and Zimbabwe, the discourse on large scale and foreign land acquisitions is also gaining ground. Yet, such concerns eclipse ongoing small scale acquisitions of customary land in the peri-urban villages involving the notion of sale. The scale at which the selling and buying of peri-urban land is occurring makes it a significant factor at the local level, considering also the social norms and structures that are eventually implicated.

A visitor to Blantyre city in southern Malawi would be overwhelmed by signposts advertising sales of customary land (*kugulitsa malo*). The signposts positioned conveniently along the main road leading into Blantyre city, especially the road to Chileka airport, handwritten and computer printed paper posters nailed to trees or electricity poles, and also regular advertisements for peri-urban land in daily and weekend newspapers suggest among other aspects unrestrained transferability of customary land. During my fieldwork a different perspective appeared on my visits to the office of the district commissioner (DC), where a notice clumsily glued to the wall in one of the offices read: “Customary land is never sold. But it is acquired from the chiefs for free of charge for the benefit of community members and any Malawian citizen.” Another notice written in the Chichewa language read: “*Malo sitigulitsa kapena kugula koma timapemppha ndi kupatsidwa mwanlere kwa mafumu*” (Land is not sold or bought but begged and given free by chiefs). Implicit in these accounts are embedded values and beliefs about land, but explicit are divergent actions: the promotion versus opposition to customary land as a commodity or an “object of economic value” (Appadurai 1986:3).

The nature of commodities has been a subject of theoretical debate in terms of what commodities embody; the dichotomous association of commodities with gifts, exchangeability and objectification, use value versus exchange-value, and alienability (cf. Appadurai 1986; Benediktsson 2002; van Binsbergen 2005a; Flynn 2005; Stone et al 2000). In the case of land, land that is sold or bought becomes a part commodity and its personality is split into use and exchange values (see Benediktsson 2002:4 writing in particular for food). Applying Arjun Appadurai’s notion of ‘social life of things’ the same item could be both a commodity and a gift in different social and historical contexts of exchange or interaction (Appadurai 1986). The ambiguity is that things and also services are commodified to the extent that access is determined by the market and decommmodified to the extent that

access is determined by criteria other than ability to pay, such as need or social relationships (Grange et al 2006). Commodification tends to be associated with monetization, but also changes in consumption patterns, and production relationships (Alexander and Alexander 1995; Gebissa 2004) which are well exemplified in the case of the commodification of customary land. The commodification of customary land, defined narrowly as monetization of land relations, does not mean that land circulates as other commodities or gifts would, but that it is nevertheless subject to “exchange-value calculations” and “increasing market mentality” (Benediktsson 2002:31) that transform social relations, interactions and the meanings associated with it. As Grange et al (2006) suggest commodification would in a broader sense incorporate the practice of thinking about daily interactions as if they were transactions. The ambivalence of land is that, besides the potential tension between use and exchange values, it is often caught in the dilemma of state law on land versus customary law on land, both of which seek to regulate transactions related to its use or non-use, exchange, and also its alienability or non-alienability.

This dilemma is replete with examples from the way Malawi’s land law position customary land. Customary land is treated as a resource with use and sometimes symbolic value; and so it is assumed that it cannot be alienated or sold⁴ or as Mitzi Goheen suggests, disposed of as a “resource with a cash value assigned to its use and ownership” (Goheen 1992:390). In reality, what is presented as custom (*miyambo*), that is, the unwritten law or beliefs, or social patterns and practices established by long usage and recognized as legitimate within particular cultural contexts (cf. Government of Malawi 2002; Kaitilla 1995; Kolig 1987) is often the normality, but how it is put into practice and the relations to effective land tenure tend to be different. The ideological basis is the assumed timelessness of custom. Ongoing practices suggest that conventions on land either as custom or law are very often both bent and broken (Cheater 1990:192), free access to land under customary law is disappearing, which also indicate and account for the fading of gifting and sharing in land relations. Commodification of customary land appears to be

⁴ This position is also captured in the press release by the Ministry of Lands, Housing and Urban Development titled “Response to the Article in Nation Newspaper (5.11.09) Entitled “Mussa Lambasts Immigration, Lands: They Have Sold Malawi to Foreigners”, *The Nation*, 16 November 2009. Yunus Mussa happened to be minister for labour at that time.

an emerging and growing practice and so the question is, how do peri-urban villagers make their choice to sell or not to sell customary land?

By its nature the commodification of customary land may include renting and swapping of fields, though in renting and swapping, land is not sold or bought. For some years, many villagers have been renting out fields and also selling land at bargain prices and at other times for large amounts of money. Apparently, poverty and inequality define the history of most land relations in Malawi (cf. Englund 2006 on poverty). Selling and buying of customary land is thus one of the ways access to customary land is mediated. The conventional argument is that since the economic liberalizations of the 1980s many farming populations in peri-urban zones in Africa have had to decide whether to sell land or not, and whether to leave farming or not; a trend few would have been prepared to contemplate a couple of decades earlier (cf. Briggs and Mwamfupe 1999; Lentz 2007: 51). In Malawi, like many other countries in sub Saharan Africa, selling of land takes place mostly in peri-urban villages, though many peri-urban villagers who tend to depend on smallholder cultivation claim being constrained by shortage of arable land (*kusowa malo*) besides other equally serious challenges such as high prices of fertilizer (*kukwera mtengo kwa feteleza*), and also lack of alternative and gainful employment opportunities, among others. Selling land means alienation of that land and so it raises questions of significant interest because the right to own customary land is not normally vested in the individual person, but in groups to which individuals belong. The groups may include the family, the lineage, the clan and the village under the hereditary leadership of the village head or the chief of the area. In practice the right to use land in perpetuity is vested in individual persons and so landholdings are worked individually (or by individual families) rather than collectively. At the level of facts, individuals (or more appropriately individual families) own and control land, while at the level of ideas it is the group which controls land (Kandawire 1977:186). Sometimes this distinction is not clear and consistently made; given also the lack of clearly defined boundaries between land tenure, kinship, social obligation, the family and the economy (Lundsgaarde 1974). The question becomes does the shift of land from a resource to a commodity also suggest shifts from more communal to more individualized forms of tenure (cf. Grigsby 1996) or acceptance of the idea that individuals, rather than kin groups have power to control and even dispose land?

Unlike registered land, which is surveyed, mapped and set up for sale or purchase, customary land comprises of untitled fields or gardens that are often irregular in shape, and often reflect random, culturally bound fragmentation characteristic of subdivision of land as successive generations pass on gardens received from previous generations. These processes and practices happen in an arena unregulated by the state. The people buying up the fields, most of whom are working or running businesses and living in the towns or cities take advantage of relatively lower land prices, the poverty and ignorance of the sellers, and also their own greater wealth compared to that of land sellers. Later, some buyers regularize ownership by applying for lease with the state. For these reasons the selling of customary land contributes significantly to numbers of plots for housing development, and those acquiring land through this channel have confidence that they have de-facto security of tenure (Allanic and Waring 2006; Rakodi 2007). Yet, as peri-urban fields are absorbed or become hives of construction for residential and commercial uses, questions related to who “owns” the land, who controls it and how it might be transferred further become more fluid and sometimes contested. Peri-urban villages become arenas of both conflict and change given that such transactions make the land seller immediately or ultimately landless. Most of the land sellers cannot compete with outsiders with a formal job and a more stable source of income (Ubink 2006). The state and sometimes traditional leaders rarely see the situation as irreversibly changing, and oftentimes hold normative positions about customary law of land and pre-existing social relations as unchanging or timeless⁵ even in peri-urban situations where change and temporarity are defining features of everyday life. It is these aspects that are the subject of investigation in this book.

Land Tenure in Context

Land tenure refers to procedures, rules or guidelines governing access, use and control over land. The system operating at any one point in time is not an inherent characteristic of the land concerned, rather it draws essence

⁵ Needs noting that the scholarly view on customary law as ancient and unchallengeable, retaining its principles through long periods of time, its origins lost in the mists of antiquity has been discarded. There is full recognition that customary laws are changing and have been subject to constant change even in the pre-colonial past (cf. Gluckman 1969:9; Lawson 1997).

from invisible elements and relations between people and the land, including mythology, kinship, marriage, religion, rank, law, social groupings, history, and economics (Gregory and Altman 1989). Given the prominence of the modern state, land tenure also defines relationships between resources, individuals, and groups of individuals in relation to the state (Nkwae 2006). Edward Fischer and Carol Hendrickson writing on the importance of Maya histories on land observed that “Land has histories attached to it, in particular, histories of ownership and relationships and knowledge passed from generation to generation....Land acts in part as a symbolic medium through which individuals connect with their ancestors, carrying on the traditions their families have practiced for generations” (Fischer and Hendrickson 2003: 132 – 3). The conventional practice is the tendency to categorize access to land and other resources into free (open) access, private (individual), customary (communal) and state property.⁶

In the context of Malawi, notions and practices guiding ownership and transfer of land are often embedded with the development discourse. Farming makes for between 30 and 40 per cent of the gross domestic product (GDP); about 90 per cent of exchange earnings, of which over half derive from tobacco exports; and also 70 per cent of total employment.⁷ Peri-urban land transactions entail reaffirmation and sometimes

⁶ The category of free or open tenure would imply no restrictions. In private property rights of access are alienable and transferable, and also restricted to an individual or a group of individuals. State property is vested in a public body. The state holds control or regulates access and use rights. It is now agreed that various ways of appropriating land and other resources are abstractions. Individuals, communities, and the state might have different access and use rights over the same resource (Narotzky 1997). Land tenure systems might be codified or documented (by religious law, common law, civil codes, judicial reviews, legislation and regulations), undocumented (e.g., customary rights, *ejidal* land (Nkwae 2006), stool land in Ghana (Wehrmann 2002; Arko-Adjei et al 2009), squatter rights, or a mix of these types of formal and non-formal tenure systems. The multiplicity of regulated and unregulated, explicit and implicit, formal and informal modes of access and exclusion to land actually sets the arena for conflict or cooperation among individuals and groups in the context of changing historical circumstances.

⁷ In comparative terms Malawi's economy performed well with an average of 6 per cent growth rate in the first one and a half decades following attaining independence (Harrigan 2001; Stambuli 2002; Peters and Kambewa 2007; Pryor 1990). Cumulative consequences of the energy crisis of the 1970s, the economic crises of the 1980s and the later years, coupled with structural exclusion of the majority of the smallholder producers; changes in global consumption patterns, and recent global economic meltdown, Malawi's development path has been compromised even with a growth rate of about 7 per cent in recent years.

transformation of access and control over the same land, but for different purposes. A proper grasp of land tenure issues as experienced and lived with in the present decade will rest on understanding the making of customary land in Malawi; and the crystallization of land tenure relations in recent time, as also reproduced in the media.

The making of customary land: Malawi scenario

The concept of customary tenure implies that access to and the use of land is vested in a group of people with recognized rights based on custom. For this reason rights to the said land are collectively assigned, and the main restrictive factor is the rules of inclusion or exclusion in the landholding community while individuals retain use rights (Alexander and Alexander 1995; Narotzky 1997:27). By virtue of custom land transfers are made only to members of the landowning group and may be made by bequests, gifts, or rent with prior approval from leaders of the lineage (Migot-Adholla et al 1991; Vele 1978). Wehrmann (2002:26) summarised the fundamental aspect of customary tenure as: ‘it assures access to land and other natural resources such as water or forests for every family and every individual of the community’. However, even though land is communally held, families and individuals are in effective control of all major decisions with regard to land use and investment. This complex matrix of relations has been summarized recently in the following words: ‘Although ultimate ownership might lie with the community as a whole, and the authority for land allocation might be held by a chief, big man, kin group leader or the consensus decision of the relevant group, the user’s rights were usually secure as long as use was maintained. Warfare and consequent transfer of territory was probably the main cause of disruption of the security of usufruct. Otherwise only out-migration or serious offence against the community would result in loss of usufruct rights’ (Hooper and Ward 1995:252). There is a view that agricultural intensification leads to virtual exclusion and localized exchanges or labour tenancies and credit markets, implying that true communal control over land under ‘indigenous’ systems occurs mainly in areas characterized by relative land abundance and low intensification (cf. Migot-Adholla et al 1991; Shipton 2007).

Drawing on Michel de Certeau, the notion of “making” implies a production process, but a hidden one (de Certeau 1984: xii). The use of the

notion 'making' is of vital importance as it signifies a particular focus on the people and the historical contexts that have produced the meanings and understandings of customary land tenure systems in Malawi down the years. In essence, land ownership is more than an investment or an asset, as land is generally viewed in developed and within commercialized contexts within developing countries. It relates to production, though it also represents particular relationships between people and space or place in time. For customary land the assumption is that such land retains and is also subject to values and practices pre-dating contact with western practices (cf. Kandawire 1977).

Historical sources point out that the peoples of present day Malawi trace origins over a vast area of land from Tanzania in the north to South Africa in the south, the Democratic Republic of Congo in the west to the Indian Ocean in the east. Different ethnic groups currently inhabiting the territory of present day Malawi settled down in what is geo-politically Malawi at different times as environmental, economic and political conditions evolved. A number of ethnic group were subdued in the period leading to the establishment of the British Protectorate in 1891 and soon thereafter (Pachai 1973a), while others moved about frequently or experienced various forms of dislocation into the first two decades of the twentieth century such that there was no opportunity for native ideas on land to crystallize or permanent settlements to develop until some decades later. This synopsis would explain ambivalent indigenous attachments to land in some cases, especially in parts of southern Malawi, as compared to what one reads about from other parts of Africa, West Africa in particular, and the developing world in general.⁸ The ambivalence is that attachments to land are often made in relation to its use for productive purposes, not solely on the basis of long term occupation, unless that is backed by some political connection to the place's ruling group.

One of the earliest documented accounts on land ownership systems in Malawi is that of Duff Macdonald, one of the first Scottish Missionaries in Blantyre. MacDonald observed around 1882 that land was not a scarce resource.⁹ Thirty years later, H.L. Duff writing in the Chi Nyanja language

⁸ The majority of the peoples of southern Malawi are descendants of Lomwe, Yao and Ngoni migrants who entered Malawi a few decades before or soon after the imposition of colonial rule and English property concepts. This intrusion constrained the evolution and growth of customary law (cf. Government of Malawi 2002).

⁹ Duff MacDonald wrote that: "A man may hoe as much land as he pleases, and for any purpose. ... It has been said with reference to various parts of Africa, that the soil belongs to

observed that prior to the coming of the Europeans, chiefs were the masters of the land, and private ownership of land was then not known (Duff 1913). For most of southern Malawi land belonged to groups of closely related matrilineages or patrilineages and inheritance of land followed the principles governing inheritance of membership in descent groups, and also of chiefly power (cf. Kandawire 1979; Mitchell 1956; van Velsen 1964). To some degree this aspect justifies claims of families or groups to particular parcels of land, and the calls for stewardship towards land as belonging to the dead, the living, and the unborn (Bohannon and Bohannon 1968; Durand-Lasserve 2004; James 1995; Kaitilla 1995; Kenyatta 1971; Shipton 2007). Custom provided for strangers who could acquire land through begging and gifting. The process involved exchange of gifts. As Batten put it “The gifts were then a thank-offering for admittance into a new community, or as tribute in recognition of the authority of the chief or elders. Membership of the community, not payment of price, was the condition of land-holding” (Batten 1947:25).

The above description tells a partial story of what the situation could have been at the time Europeans adapted native tenure systems to requirements of the colonial political economy. The major adaptation was the introduction of the notion of land as a commodity while also retaining pre-contact aspects. Throughout the colonial era customary elements of land ownership were preserved in the interest of settler planters and metropolitan interests. As Margaret Jolly observes for Africa and Papua New Guinea, preserving aspects of existing societies provided European entrepreneurs and colonial governments with a cheaper labour force while exempting them from the costs of its reproduction (Jolly 1992). In its present forms, customary land tenure represents various stages of development, if not invention, reflecting interactions between pre-contact land relations and the intervening colonial and the post-colonial land relations. This is evident in the practice of buying and selling of land in peri-urban areas which is by and large a continuation of the trend set at the end of the nineteenth century.

the tribe and that according to the native idea; no chief has a right to make grants of land. But I found chiefs always willing to grant as much land as they were asked for” (MacDonald 1882: 117). Mary Tew observing that “The rules governing land tenure were those which would be expected of a society which suffered from no land shortage. A man was entitled to as much land as he could cultivate, the limitation being that he should consult the headman as to his neighbours’ boundaries. Abandoned gardens could only be taken up with the permission of the original cultivator” (Tew 1950:17).

Events always have antecedents and regarding land transactions in peri-urban Blantyre one of the antecedents could be the purchase of land involving Chief Kapeni I and the Scottish Missionaries in Blantyre in 1876; which has been described as “probably the first land transaction ever known in Malawi” (Lamport-Stokes 1970: 62). Nobody knows the purchase price, though what is certain is that the land was exchanged or bartered with goods. The Society of Malawi reports that “Chief Kapeni granted the missionaries the right to settle between the Likabula and Nasolo streams which the missionaries had chosen for settlement, and later this ‘grant’ was confirmed by purchase ... from the first Chief Kapeni in 1876 and ... from the second Chief Kapeni in 1885” (The Society of Malawi 1989:13). In 1879 the African Lakes Corporation (ALC) purchased some 7 000 acres (2,832.8 ha). By the early 1890s most of the land in the Mudi Valley (Blantyre city) had been sold or bought. In just over a decade almost 15 per cent of the land in southern Malawi was taken over by planters, missionaries and traders (Kanyongolo 2004; Pachai 1973a). These early acquisitions were unregulated so that some parcels of land were subject to multiple claims (Kandawire 1979:49). The difficulty in regulating early acquisition lies in the fact that there was marked increase in numbers European settlers from 57 in 1891 to 237 in 1894 (Baker 1993) and two years later up to 300 (Pike 1968). Harry Johnston, the first commissioner and consul general, described the trend as “Wholesale grabbing of land” where “huge tracts had been bought for disproportionate amounts from the natives” (Johnston 1897: 107 – 8). As Kandawire (1979) put it, some chiefs agreed to let more than one person have the same piece of land on the understanding that they were all acting as a group. Even before colonial rule, settlers and planters claimed representing the interest of the British crown.

Some, if not most, early land acquisitions were dubious as reflected in reports by missionaries and colonial administrators at the time. John Buchannan, who came to work for the Blantyre Mission in 1876 as a gardener, but left the mission after some troubles with the mission authorities, obtained 3 065 acres (1240.4 hectares) in Blantyre (Michiru) for a gin, thirty-two yards of calico, two red caps and several small items (Pachai 1973a). Harry Edwin Pettitt, a hunter, purchased some 80,000 acres (32, 374.851 hectares) [Certificate of Claim No. 9] covering nearly all the tea estates in the Thyolo area (Lamport-Stokes 1970:62). Drawing on archival resources, Pachai (1973b) observed that pioneer settlers, traders and

missionaries took advantage of the friendliness and gullibility of the natives, and the looseness of interpretation of the act of exchanging gifts and information, to lay claims to vast areas of land. Presents of cloth and other items were often followed by enquiries about the chiefs' boundaries. Thereafter the information was used for the purposes of laying claim to the land than agreed in the alleged deed of sale.¹⁰

The writings of some colonial administrators suggest similar indiscretions. Maughan, one of the early colonial administrators in Blantyre noted that "Some of the larger landed concerns by means of private dealings with the natives concluded prior to the establishment of a settled government possessed very considerable areas of land. When the transactions, which resulted in their ownership, were officially enquired into with a view to the issue of Certificate of Title, it was found that the consideration which had passed to the native chiefs in respect of these territorial acquisitions was often of a curious and in some cases, wholly inadequate character" (Maughan 1935:61). Hunger stricken natives went about without food on 'tightened belts' and some managers of trading companies took advantage of the situation.¹¹ In one of the cases, a manager killed a fat pig and summoned a chief for the purpose of "discussing the question of land transfer". Maughan writes: "The famished potentate duly arrived and at sight of the appetizing morsels artfully displayed before his eager eyes, listened distractedly to the manager as the latter made his well thought out proposals to buy the coveted land. ...The preoccupied chieftain his eyes fixed upon pork and his nostrils twitching made one reply: '*Ndiri njala*' (I am so hungry)." The manager induced the chief to "put his mark to a document which had been carefully prepared, transferring in perpetuity the spacious area demanded, for and in consideration of ... the pig's head" (Maughan 1935:62).

¹⁰ A later generation of African chiefs regretted that their ancestors had been unnecessarily enticed. Pachai (1973b) notes from archival sources, "When a planter came to the village", said Chief Kadewere, 'he asked the chief to sell him a place where he could build his house and that is the only plot the chief signed for. The old chiefs say this is what happened.' Source: COM-F. 4/I/I. Evidence of Chief Kadewere made on 24 June 1915 to the Commission of Enquiry into the Chilembwe Rising, National Archives, Zomba. For the Gikuyu the "settlers played on the ignorance and sincere hospitable nature of the people" (Kenyatta 1971:45).

¹¹ Warfare, slave-raiding and drought from September 1861 to February 1862 and September 1862 to May 1863 may have prevented cultivation in the Shire Highlands and the Lower Shire, respectively (see Ilife 1984).

When Harry Johnston decided to introduce order, instead of returning all lands alienated prior to the declaration of the protectorate, he asked the settlers to present a claim, and in return he awarded them Certificates of Claim, which is Freehold Title (fee simple). The unclaimed land became Her Majesty's (crown) land. The certificates of claim transformed ownership by Africans through group membership to ownership by Europeans through holding a certificate to the land (Kandawire 1979: 51). Important questions or matters received scant attention. These include concerns about chiefs having the right to sell land, whether the buyers paid reasonable price¹² and the chiefs' (sellers) understanding of what that meant. There was also lack of careful consideration about rights of the people living on the land. That chiefs did not have the right to dispose of land and the possibility that the concept of selling land was not known to the chiefs were also overlooked (Kandawire 1979: 51 – 53; Ross 1975: 89). As Hetherwick (n.d: 85 – 6) one of the early Scottish missionaries at Blantyre observed, the chiefs who entered into the various transactions thought that they were selling the use of the land or granting a kind of lease. It was for this reason that difficulty arose between the planters in Mulanje area and Chief Chikumbu in 1891 where "The planters thought they had bought land from him in 1890 and were bitterly resentful of his dishonesty when he demanded a further payment the following year. To Chikumbu this was simply his due as chief from those who were being allowed the use of land in his domain" (Ross 1975: 89). As Pachai also observed, "The idea of selling land according to western concepts was not part of traditional society. In any case, no one had the right to sell what did not belong to him. The granting of land for occupation and cultivation was different from the practice of selling land for private or personal gain" (Pachai 1973a:97).

The colonial government's land and economic policies favoured European planter activities than those of African peasants (McCracken (1968:191). Despite the nominal price of land, the planters were also favoured by the taxation system designed in part to force natives to work for several months of the year for the settlers, rather than on their own fields. This process applied largely to the Shire highlands in southern Malawi, which covers present day districts of Blantyre, Chiradzulu, Mulanje, Thyolo and Zomba, while elsewhere settlers were few and far between such that land

¹² Hanna (1960:209) observed that the purchase price on which Johnston usually insisted was 3d. per acre.

alienation was of little consequence (McCracken 1968: 191-2). As Sholto Cross writes, in the Shire Highlands grievances over land led to the Chilembwe rising in 1915, which foreshadowed many of the anti-colonial struggles throughout east and central Africa (Cross 2002). Above all, colonial domination superimposed new rules of access to land based on individualistic and materialistic considerations. As Batten once observed: “Europeans have influenced African ideas of land tenure in two ways: either directly when colonial governments have introduced new forms of tenure by law; or indirectly as a result; not always foreseen, of the changes in African economic life caused by the introduction of European trade, settlement and government” (Batten 1947:31).

Several attempts were made to mediate the wrongs of the early colonial land acquisitions. The 1904 Native Locations Ordinance gave authority to the governor to direct landowners to set aside one-tenth of undeveloped lands as native reserves. The native reserves were to be vested in the village communities and natives could settle on the basis of eight acres (3.24 ha) per family in return for either rent of four shillings per hut or work for a period of one or two months during the planting season (Buell 1965). This arrangement worked to the disadvantage of the natives to the extent that the rights they had were those of ordinary tenants, subject to eviction at will of the land owner. Under the 1914 Native Tenants (Agreement) ordinance, rent could be paid in cash or labour to the landlord (Kanyongolo 2004). The 1917 Native Rents (Private Estates) Ordinance, forbade the exaction of service in lieu of rent, though it recognised the right of settler farmers to charge rent on native occupiers, especially those not covered by the rights under the certificate of claim.¹³ The settler landlords obliged the tenants to pay rent, though in many cases they refused cash payment since their major want was labour (Buell 1965). In 1936 the colonial state passed the Native Trust Land Order in Council. Under this order land in Malawi was divided into three classes: Crown Lands, Reserved Lands and Native Trust Lands (Buell 1965; Pike 1968). Crown lands included all land and interests in land acquired on behalf of His Majesty’s and all government sites. Reserved lands comprised

¹³ Johnston registered 66 Certificates of Claim covering 3,705,255 acres. His objectives were: to protect the rights of the Africans, to see that their villages and plantations were not disturbed and that sufficient space was left for their expansion; to discourage land speculation; and to secure the rights of the Crown (Baker 1993: 8). The non-disturbance clause was not adhered to due to the difficulty of distinguishing between original and migrant occupants.

of land other than Crown lands within the boundaries of townships, forest reserves, and all lands and interests in land alienated and freehold estates. Native Trust Land comprised of all other land other than Crown and Reserve lands, and it was vested in the secretary of state for the colonies and administered for the use and benefit of the natives (Meek 1946). This ordinance marked the clear position of customary land as later defined in the 1951 land ordinance.

The 1951 Land Ordinance reclassified land as public, private and customary (Government of Malawi 2002). After gaining independence in 1964, the Land Act (1965) retained the three tenure forms articulated in the 1951 ordinance. Customary land is defined as all land held, occupied or used under customary, that is, African law; public land as all land occupied, used or acquired by government which includes all the estates bought by the government for resettlement, forestry areas and lapsed leasehold areas, and private land as land held, owned or occupied under a freehold title, a leasehold title or a certificate of claim. This categorization is underpinned by unequal relationships and a commodity logic that legitimizes distinction between uncoded land relations and those officially codified. It does not imply neat parallel systems of land tenure, rather a contradictory blend of statutory and customary practices (Peters 2004). It sets up the possibility of future transfers in ownership even where protecting vulnerable communities from wholesale land alienation is the initial motive (cf. Abramson 2000).

In practice, the land act replaced the governor and the commissioners who exercised power on behalf of the British sovereign, with the president and minister. Section 25 stipulates that: “All customary land is hereby declared to be the lawful and undoubted property of the people of Malawi and is vested in perpetuity in the president for the purposes of this act.” Then it proceeds to stipulate that the minister may grant leases over public or customary land for a period not exceeding 99 years. The minister may also order that customary land become public land if it is for the direct or indirect benefit to the community as a whole. Section 66B reads: “The chief may subject to the general or special direction of the minister authorize the use and allocation of any customary land in his area in accordance with customary law.” What is customary law is subjective to the definition of the people in a particular area, while what is in the public interest is subjective too, and so far it also includes private interests of those who are politically connected to the state and the rich. It gives room to overzealous state

officials, including district commissioners, to apply the law in ways that deny rights of customary landholders. Besides the land act, other laws that touch on customary land include the Customary Land (development) Act, Registered Land Act and the Chiefs Act.

The Customary Land (Development) Act (1967) provides for the ‘Ascertainment of rights and interests in customary land for the better agricultural development of customary land’ (Lamport-Stokes 1970:77) through establishment of registered or freehold customary land (*ndunda* system).¹⁴ So far the Customary Land (Development) Act has been applied to Lilongwe west only, and the consequences have not been encouraging. The Registered Land Act (1967) takes into account leases, charges, transfers, casements, agents, trusts, restraints, prescription and appeals and decisions etc. (Lamport-Stokes 1970:77). The Registered Land Act mandates the minister to constitute any part or parts of Malawi as land registration district or districts. The registration process is characterized by gross inefficiency and corruption.¹⁵ The Chiefs Act (Act No. 39 of 1981) makes provision for the recognition, appointment and functions of paramount chiefs, chiefs, sub-chiefs, councillors, group village headmen and village headmen. The act specifies that no chief shall exercise jurisdiction within the area of a city, municipality or township except with the written approval of the appropriate assembly. However, the de-facto principle is that traditional leaders or chiefs do exercise powers of allocation of land even within urban or local authority areas (cf. Blantyre City Assembly 1999). Even at the level of ideology ordinary peoples’ perceptions of land rights are not similar to those embodied in law and in some cases even those embodied in particular understandings of custom. The reasons are varied but the most important ones relate to connection that land has to the economy, the politics of power and poverty and the ever changing socio-demographic trends.

¹⁴ The Malawi National Land Policy describes the *ndunda* system as a tenure system designed for the Lilongwe West Development project to give security of ownership over customary land through the registration of title (Government of Malawi 2002).

¹⁵ The former Minister of Lands, Housing and Urban Development admitted that there is serious corruption in the ministry and went on to ask the Anti-corruption Bureau (ACB) to start probing members of staff. A few months later he was moved to another ministry, and his replacement took a lukewarm approach, blaming the public for making baseless accusations. As John Bande, then the new minister at lands is alleged to have said, “I will not tolerate accusations without evidence because that is childish, but if one brings forth evidence I will surely act on them, otherwise I will not waste time on allegations.” Diana Liabuba “Bande warns inefficient staff”, *The Daily Times*, 13 September 2010.

Land, economy and socio-demographic relations

Looking back at the period since independence there are ironic differences, also reflected in conflicting statistics, on the availability and distribution of land. The general picture is that there is acute shortage of land countrywide, though the shortage is often described as more severe in the southern region, home to about 45 per cent of Malawi's population (Government of Malawi 2008). Overall, Malawi has a total of 11.8 million hectares of which 9.8 million is land but the area potentially available for agriculture by small farmers is approximately 4.5 million hectares (Government of Malawi 2002). A good percentage of the land countrywide is also occupied by estates, which is one of the legacies of colonial land alienation (cf. Kandawire 1977; Peters 2002; Stambuli 2002). A 1992/93 national sample survey of agriculture showed that countrywide 78 per cent of rural farm families own less than 1 hectare of land, which compares unfavourably to the previous survey in 1985/86 that reported 55 per cent of the farm families as owning less than 1 hectare of land. In 1997/98 it was estimated that one third of smallholder farm families were cultivating between 0.5 and 1 hectare of land (Government of Malawi 2001a). A more recent publication suggests that between 1.8 and 2.0 million smallholder farmers nationwide cultivate on average 1 hectare of land compared with 30,000 estates occupying 1.2 million hectares with an average landholding of between 10 and 500 hectares (Chirwa et al 2006; Government of Malawi 2002). The size of landholding is considered a constraint to commercialization of smallholding farming and also household food security (Kulemeka 2000; Chirwa et al 2006). In order to understand the current dynamics there is need to appreciate that after gaining independence Malawi experienced phenomenal transfer of customary land from the smallholder agriculture to the leasehold estate agriculture and also a significant population growth. The explanation also relates to economic expediency and politics.

From independence in 1964 up to 1994 Malawi was a single party state overseen by the self-proclaimed President-for-Life Dr Hastings Kamuzu Banda (Englund 2004). Banda presided over one of the extreme and highly personalized and repressive regimes in Africa. Under his rule land could be transferred from smallholder customary tenure to private (leasehold) tenure at his whim (Cross 2002; Ellis et al 2003; Stambuli 2002) and on the expiry of the lease turn into public land. As Peters and Kambewa (2007) write, Dr

Banda abandoned promises to reverse the dualistic colonial economy that privileged foreign interests in estate farming, towards a stance that did not differ much from the colonial views about customary tenure. Banda wished to modernize agriculture in order to increase per capita income and to raise standards of rural living, but he associated customary land tenure with undesirable agricultural practices. In 1967 Banda mentioned in parliament that, “Under the present method of landholding and cultivation we can never hope to develop this country economically with agriculture as the backbone of our economic development.” Banda’s opinion of customary land tenure was that, “No one is responsible ... Land is held in common ... and everybody’s baby is nobody’s baby at all” (Ng’ong’ola 1982: 115 cited in Peters and Kambewa 2007). As Peters and Kambewa argue, this reflected the prejudice against customary or communal land as imagined by Europeans, but also echoed opinions of colonial officers on land tenure.

Banda’s position towards customary land is characteristic of the many contradictions that characterized his presidency, including his personal, economic and human rights record. As Jean Davison suggests, Banda neither had confidence in customary land nor understood it properly as meaning communal tenure. Drawing on Pryor (1990) Banda is reported saying that “In so far as I know Africa, if they (Africans) have any economic system at all, it is not capitalism, it is not communism, it is not socialism, it is definitely not statism, but individualism. Here a man and his wife want first to have a hut of their own, a garden of their own” (Davison 1995:191). Banda supported individualism and laws were enacted that favoured cronyism. The Land Acquisition Act was formulated and passed to facilitate land transfers from customary to leasehold tenure. Over a twenty year period, between 1970 and 1989, leasehold land increased from 79,000 to 758,400 hectares (Stambuli 2002). The consequences included a decline of land available for smallholder agriculture. Banda took advantage of international sanctions on Ian Smith’s Unilateral Declaration of Independence (UDI) in Zimbabwe (Southern Rhodesia) by attracting and encouraging international tobacco buyers based in Zimbabwe at the time to support the development of burley tobacco in Malawi (Chirwa, et al, 2006). Unlike in the colonial era when most of the estates were owned by white farmers, some of the new estates happened to be owned by indigenous Malawians, with the state playing facilitating role in the private accumulation of land (Jul-Larsen and Mvula 2007, Stambuli 2002). As Chirwa et al (2006) also write, most estates

established in the early years were capitalized by bank loans with little or no equity, many of the owners happened to be connected to the regime, and a good number of them had little knowledge of business or commercial agriculture.

The perpetuation of customary land arrangements served Banda's capitalist development and modernization project, just as it operated during the colonial era. For thirty years, many aspects of life followed the same rhythm up to the 1992/94 period. This period marks Malawi's transition from single party rule to multiparty rule. Since 1994, the government has introduced some significant changes at the policy level and in its development strategy, emphasizing smallholder agriculture, reliance on the private sector, and reorientation of public expenditures toward social services (World Bank 2006). In practice the changes have been slow, uneven, and complicated (Ellis, et al. 2003). The government changed agricultural policy by repealing the Special Crops Act, which restricted smallholder cultivation of burley tobacco. As a result, during the 1990s a large number of smallholder farmers, especially in the central region of Malawi, adopted the growing of tobacco. Other reforms such as reducing price controls in the domestic economy, raising prices paid to smallholder farmers in order to stimulate production, restructuring and privatization of statutory corporations, and devaluing the currency have had negative effects on smallholder producers (Englund 2006a; Harrigan 2001; Stambuli 2002). Other challenges included uncertain markets, and substantially reduced access to essential services like agricultural extension and credit. Other aspects are severe macro-economic mismanagement and a weakening of state capacity as a result of opportunistic privatization, and diversions of state funding to build patronage, leading to what Booth et al. (2006) cited in Dorward et al (2008) described as the democratization of corruption. In 1998 the government introduced universal provision of small packs of maize seed and fertilizer under the starter pack programme; later upgraded in 2005 to the targeted subsidy. The emphasis placed on the fertilizer subsidy as a response to food insecurity, has been influenced by the recognition that most of the food insecure people and the electorate are rural deficit producers dependent on customary land, who experience serious difficulties in accessing fertilizers.¹⁶

¹⁶ Malawi continues to experience other challenges such as a narrow range of risky and low productivity activities exacerbated by poor infrastructure, services and communications, low

Progress in many critical areas of development is slow. Malawi has one of the lowest human development index (HDI) of 0.493.¹⁷ Life expectancy is 53 years; adult literacy is at 73 per cent and income per capita (purchasing power parity, PPP) is US\$761. Real income per capita is as low as US\$280.¹⁸ One of the main development challenges has been how to improve agricultural productivity in order to raise food production and food security and improve levels of income (Chirwa et al 2006). Access to land is one of the contentious aspects given that land is a primary resource in farming.¹⁹ I will comment briefly on the recent efforts to reform the land situation, for instance, through the new Malawi National Land Policy (MNLP) (2002), and the Community Based Rural Land Development Project (CBRLDP) (*Kuzigulira malo*) with financial support from the World Bank.

The MNLP makes a number of recommendations on the future administration of customary land. It provides for the registration of customary land into private customary estates and also provides for registration of unallocated customary land as public land for the exclusive use of members of the area. This is an improvement on the provisions of the land act given that this land policy goes on to proposes strengthening the land rights of women and orphans, regulating land access by non-citizens, limiting leasehold terms for industrial and commercial investments to renewable terms of 50 years or less, and rationalizing compensation for land appropriated by the state. Under the past policy holders of customary rights, whose property was acquired by the state, could receive nominal compensation for crops or houses while private owners had better bargain

literacy and poor health exacerbated by the spread of HIV/AIDS (Dorward and Kydd 2004: 346 cited in Peters and Kambewa 2007).

¹⁷ United Nations Development Programme (UNDP) - HDI is the composite measure of three dimensions of development: living a long and healthy life (measured by life expectancy), being educated (adult literacy and gross enrolment in education) and decent standard of living (purchasing power parity, income). (HDI Report 2009) http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_MWL.html

¹⁸ The World Bank (2009), <http://data.worldbank.org/country/malawi> (accessed on 20 January 2011).

¹⁹ This aspect has been summarized by Sholto Cross in the following words: “The struggle for access has been the central fulcrum of the country’s politics since the beginning of the colonial period. ...The various land commissions and enactments of the mid and late colonial period were dominated by the need to balance the interests of the large commercial users and the smallholders in the customary system, yet suspicions and tensions over the land formed a powerful current within the wave of nationalism which brought about independence” (Cross 2002:4).

(Government of Malawi 2002). To some degree the proposals aim at instituting more transparent and participatory mechanisms for land allocation. Yet, there has been little movement towards harmonizing²⁰ various land related laws (Peters 2007). Lack of resources and resistance from chiefs to privatisation of customary land are some of the hurdles. On the other hand, the CBRLDP is a World Bank sponsored initiative in pilot phase since 2004. The aim is supporting 15,000 land and income poor rural households in southern Malawi. The idea is to improve farm incomes through a market-assisted, community based and voluntary land reform program.²¹ In essence the program involves resettlement from areas of land shortage to areas where there is ample land. The people in the pilot districts who would like to relocate are required to form what are known as beneficiary groups (BG). The land to which the villagers relocate to comprise of idle private estates bought on the willing seller-willing buyer arrangement. The implementation of the initiative is yet to be appraised, though there are indications of improved agricultural productivity by those who have relocated amidst challenges of access to essential services and remoteness of some of the resettlement sites. The long term effects on social and political stability are not yet evident, though there have been concerns recently among chiefs and politicians in the districts where people are being resettled that the new comers are eventually contributing to overpopulation and land pressure.²²

These two initiatives are linked to land shortage, which has become obvious with the trebling of population from 4.4 million people in the 1960s to 13, 066 320 people in 2008 (Government of Malawi 2008, 2009). The average population density has gone up from 43 persons per km² in 1966 to 139 persons per km² in 2008, representing almost threefold increase over a period of 40 years. In some parts of the southern region the population density is as high as 300 persons per square kilometre. In many parts of Malawi the chiefs' responsibility to allocate land has diminished and families are the ones allocating land to the members. Individual ownership needs

²⁰ It was reported recently that there are 16 land related laws and 12 bills to be amended. Charles Mpaka attributes this to HRCC national coordinator in a newspaper article titled, "Malawi land up for grabs" *The Daily Times*, 11 October 2010.

²¹ The World Bank Country Manager for Malawi, Sandra Bloemenkamp's newspaper article titled 'Kudzigulira Malo Project – A pride to beneficiaries', *The Daily Times*, 1 July, 2010.

²² The issue emerged at a district level development meeting. Suzgo Khunga, "Mangochi chiefs bemoan overpopulation", *The Daily Times*, 22 September 2010.

stressing (cf. Chipeta 1971), even though the discourse on land, as evident in the events leading to the formulation of land policy, remains linked to considerations of lineages and rights and duties of traditional leaders or chiefs as if land rights have never transformed into individual holdings (cf. Cotula 2007; Firmin-Sellers 1995).

The dynamics of land allocation for farming purposes at family level are different and varied. Men who acquire land in their matrilineal or villages of birth often retain such land even after marriage, while also enjoying land rights in the village of their wife, especially when the villages are not far apart (cf. Takane 2007). *Chitengwa*, a patrilineal reality in matrilineal communities by which a husband takes a wife and live with her virilocally, is becoming common. The actual situation depends on the status of the husband and the availability of land in the husband's village (Davison 1995). Severe land shortages make it difficult for children of such men to inherit the land (cf. Takane 2007). Other adaptive strategies observed by Takane include purchasing and renting land for farming purposes. Peters and Kambewa (2007) observed similar trends in Zomba, but besides increasing renting, selling and buying land, there is also a tendency among some villagers to relocate (*kusamuka*) to other districts in search for farming land. Such relocations are individually arranged and are not part of the CBRLDP. As sales of land are increasing, questions arise over who has the right to sell land. This question concerns the definition of family or kin group upon which access to land is normally attributed. Another issue is how to determine the customary owners. These concerns lead to disputes that have the effect of turning family members into strangers and sometimes feeds into accusations of witchcraft (cf. Peters 2002). Some of the disputes, accusations and counteraccusations of this nature, along with several other related themes, have over time found space in the print media where the key concern has been on challenges of land governance in Malawi.

The Challenge of land governance: accounts from the print media

The centrality of land in everyday life implies that few people are indifferent to how land is acquired and used. In the print media, land is often portrayed as a scarce resource bound to unhealthy competition. However, much interest has been on the encroachments on public or private land, corrupt acquisition of land by elites and foreigners, hence linking questions

of access, ownership and transfer of land to the discourse on poverty, citizenship and governance, good governance in particular, since the major points of contention have been corruption and the lack of transparency and accountability among public officials. Here I am interested in the themes, that is, how they define and treat land related matters as newsworthy, and also locate the discourse within the ambit of everyday forms of land governance (cf. Meur and Lund 2005).

As land is increasingly becoming scarce, encroachment onto and displacement of squatter families on public and private land have increased. This well documented in the print media. For instance, very recently the print media reported that over 2000 families in the central Malawi district of Kasungu were in July 2010 asked to relocate from the land they had occupied for over a decade. The land, appropriated decades earlier by the state, formed part of the defunct Kasungu Flue Cured Tobacco Authority (KFCTA), and has since been reallocated to the Malawi Defence Forces (MDF); though media reports suggest that the MDF has no immediate plans on what to do with it.²³ There are also reported concerns and so questions are being raised about how chiefs exercise their role as trustees over customary land. For instance, a chief by the name of T/A Maseya is alleged to have forced people in two villages of Dziwazina and Kaphiri to give up 286.4 hectares of customary land to a former cabinet minister who intends to establish a cattle ranch. Although the villagers were eventually compensated, the amount of compensation offered has been bemoaned by some villagers as too little. The district commissioner (DC) challenged those complaining about losing land to seek redress from the courts of law, noting that “This is an open society. People can go to court. As DC, I am here to ensure that the district is developed. Villagers do not own land in Malawi. It belongs to the head of State. You do not compensate for a piece of land but property thereon.”²⁴ What makes this incident critical is the insensitive application of the law on land. Also, to suggest that villagers do not own land in Malawi erroneously makes the state as trustee owner of the land and through that aim to justify denial of property rights of customary landholders. The paradox is that many

²³ Bright Sonani, “2000 families told to relocate”, *Nation on Sunday*, 18 July 2010.

²⁴ Deogratias Mmana, “400 villagers fight former minister, T/A, DC over land”, *Weekend Nation*, 17 July 2010. The MNLP in section 4.16.2 states that customary land has value as a scarce resource and has other physical and intrinsic attributes that also contributes to its economic and social value.

people living on customary land often think and speak of themselves as landowners.

The media has also recently highlighted effects of uneven economic, social and power relations over land issues. Within Blantyre city, there have been sporadic tensions over public land in recent years. Recently, close to 10 hectares of land owned by the Malawi Housing Corporation (MHC) have been occupied illegally since the period leading to the 2004 general elections. On the one hand traditional leaders from surrounding peri-urban villages claim ownership over the land, even though customary law does not apply in urban areas.²⁵ On the other hand middlemen or speculators and politicians have often taken advantage of such situations, and in the case of politicians, by promising protection to the encroachers in exchange for votes.²⁶ Several other incidences also suggest simmering land governance challenges.²⁷ As early as 1994 village headwoman Kausiwa of Manyowe (Blantyre rural) was dragged to the district commissioner's office by the then Member of Parliament for Blantyre City West allegedly for selling land to private developers.²⁸ Later on in the late 1990s residents of Manase township opened a market on land owned by a private company and efforts to mediate by the city council failed ostensibly due to what was described at the time as the involvement of some 'big fish' in the government.²⁹ Yet, recently a small holder farmer in a Blantyre township of Chilomoni had his maize crop slashed by members of the Jehovah Witness who claimed at the beginning of 2010 that the land he had been using for many years was allocated to the

²⁵ This is true as outlined in the Chiefs Act. It was also highlighted in the press release by the Ministry of Lands, Housing and Urban Development, for example, in the press release titled: "Land Within Urban Centre", *The Daily Times*, 12 April 2010.

²⁶ Based on reports by the people I met at the district commissioner's office following up on their claims for compensation (MHC land in Chigumula, Blantyre), and also interviews with Mr. Rodney Nankuyu of MHC.

²⁷ The concept 'governance' is used differently but here it refers to the process by which decisions are made regarding the access to and use of land, the manner in which those decisions are implemented, and the way that conflicting interests are reconciled (Kironde 2009).

²⁸ The village headwoman disputed such claims. See article by the Times Reporter, 'No sale: Land, where ignorance is forgivable?' *The Daily Times*, 10 August 1994.

²⁹ This incident happened when the United Democratic Front (UDF) was the ruling party (1994 – 2004). See Akimu Kaingana, 'People invade Mandala land', *Malawi News*, 5th – 11th July, 1997.

religious movement by the Blantyre City Assembly (BCA).³⁰ In addition, some people in Blantyre encroached on the airport land, and in early 2010 some of the structures were demolished by the state. The demolition targeted temporary structures erected and used by small scale vendors on the periphery, while leaving intact two churches, incomplete permanent residential house owned by a senior civil servant and an incomplete permanent business structure, which are well within the state land.³¹

Well-connected business elites with the complicity of the state have been involved in land grabs, even of tiny parcels of land from poor villagers with impunity.³² One of the notable incidents involves a dispute over a 0.18 hectares land in the tea growing district of Mulanje in southern Malawi between Mulli Brothers' Chitakale Estate Limited and Mary Woodworth (Malawian born woman married to a British citizen). Mulli Brothers acquired Chitakale tea estate from the state a few years ago, while Mary Woodworth owned the disputed land located next to the estate by inheritance. Later, Woodworth leased the 0.18 hectares land upon advice from the district council. In November 2009 the High Court of Malawi issued a permanent order restraining Mulli Brothers or their agents from entering the disputed land.³³ Mulli Brothers appealed to the Supreme Court of Malawi, which in a ruling delivered in June 2010 upheld the decision of the High Court that the land belongs to Woodworth. Yet, Mulli Brothers ignored the order by the Supreme Court.³⁴ When Woodworth asked the court to commit to prison directors of Mulli Brothers for contempt of court, the state intervened by issuing a warrant of arrest against Woodworth on trumped up charges of malicious damage, theft, criminal trespass, conduct likely to cause breach of peace and intimidation.³⁵ The state failed to prosecute the case and the Magistrate court freed her before any hearing. This dispute has been dubbed

³⁰ Elijah Nthara, 'Jehovah's Witnesses slash crops in Blantyre', *The Nation*, 4 January 2010; Cartoonists Ralph Mawera *The Nation*, 6 January 2010.

³¹ Based on my field observations. See also a news article by Watipaso Mzungu, "Govt demolishes airport encroachers' stalls", *The Daily Times*, 22 March 2010.

³² News comment titled: "Land grabbing is counterproductive", *The Daily Times*, 28 December 2009. This article dwells on the conduct of Mulli Brothers a private company alleged to be well connected to the state machinery.

³³ Wezzie Nkhoma Somba, "Mulli appeal case fails to start", *The Daily Times*, 16 March 2010.

³⁴ McDonald Chapapata, "Change of lawyers delays Mulli case", *The Daily Times*, 17 July 2010.

³⁵ Emmanuel Muwamba, "Mulanje NGO boss released on bail", *The Nation*, 14 July 2010.

the “struggle between philanthropy and expansionism”.³⁶ Later, the state issued a ministerial land appropriation order on 28 September 2010, ostensibly in the public interest.³⁷

On the contrary, incidents involving villagers living on private owned land are handled with heavy handedness by the police and courts of law. Some landless villagers have been convicted and imprisoned ostensibly “to teach other would-be offenders a lesson”,³⁸ or held hostage by the police on the orders of magistrates to compel their families to vacate private land.³⁹ Evictions on customary land do occur and are rationalized on the grounds of paving way for development projects, though such evictions are also made on flimsy accusations of practicing witchcraft or in relation to chieftaincy disputes.⁴⁰ Similarly, affinal women in virilocal residence have limited rights over land.⁴¹

Major land issues in urban areas have been on problems of adhering to zone planning and appropriate building standards, the proliferation of illegal structures erected by dubious businessmen⁴² and unscrupulous foreigners.⁴³

³⁶ Woodworth, who lives in the United Kingdom, runs an NGO known as Friends of Mulanje Orphanage (FOMO). FOMO provides food and material support to some 3000 orphans. Some of food is produced on the disputed land. See Edward Chisambo, “Winds of change from state house”, *The Nation*, 16 July 2010.

³⁷ While recognizing that legally the land belongs to Mary Woodworth, the Minister of Lands, John Bande, ordered appropriation of the land within 60 days. The order appears in Government Gazette of 14 October 2010. See also Gregory Gondwe ‘Govt grabs Mulli desired land’, *Zodiak online*, 29 November 2010. http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1595:govt-grabs-mulli-desired-land&catid=1:latest-news&Itemid=55

³⁸ Joseph Mwale, ‘Villager encroach Khasu Estate’, *The Daily Times*, 18 November 2009.

³⁹ Relates to incidents in Kasungu involving land of Lifupa Farmers Associations as reported by Noel Mkubwi, “Encroachers remanded”, *Zodiak online* 20 September, 2010. http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1068:encroachers-remanded&catid=34:news-top. Then, 400 hectare of Linjizi Estate owned by Robin Alufandika was in 2010 occupied by some 500 villagers from eight villages in T/A Mlumbe’s area, Zomba district. The police remanded some five encroachers. See Norman Fulatira, ‘Zomba villagers take over estate’, *Zodiak online*, 30 November 2010. http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1598:zomba-villagers-take-over-estate&catid=34:news-top

⁴⁰ Charles Mpaka, “Malawi land up for grabs”, *The Daily Times*, 11 October 2010. HRCC report titled “Up for grabs: Land Access, Distribution and the Role of Parliament in fostering Land Justice in Malawi”.

⁴¹ Daud Kayisi, ‘Fighting poverty through women, land rights’, *The Nation*, 3 February 2010.

⁴² Limbani Moya, ‘Illegal structures hit cities, ... 100 applications per month’, *Malawi News*, 15 – 21 November 2008.

The selling of land to foreigners is described as a “malpractice” and potential threat to citizen ownership and control of land,⁴⁴ thus highlighting the close relationship between land rights and citizenship. The complexity is that it is often alleged that corruption is involved such that state institutions dealing with land and housing are also better described as informal sites of bargaining and corruption. The acting commissioner of lands admitted that corruption is high in the department of lands citing, for example, that most processes and record keeping systems are manual, leading to inefficiency and room for corrupt practices.⁴⁵ Then the permanent secretary for lands corroborated these sentiments observing that: “There have been corrupt practices at the Ministry of Lands. The public is not to blame for labelling us corrupt because we have used the manual system to change information deliberately.”⁴⁶ The debate on land has also eventually attracted the religious leaders, the law society, chiefs and also politicians.

While calling on the government to address the land issue as a matter of urgency, some religious leaders, taking advantage of their place as opinion leaders and a power broker constituency, have often blamed the traditional leaders for selling customary land to foreigners for the love of money.⁴⁷ While traditional leaders are noted for being unaccountable, one of such chiefs in central Malawi apportioned the blame to vested interests among chiefs, gaps in the law and lacklustre formal land governance, noting that “Traditional leaders have lost a lot of customary land because of investors who lease the same and fail to return it to them when the lease expires.

⁴³ Joseph Langa, ‘Government Busts land scam.. most plots sold to foreigners’, *Malawi News*, 7 – 13 November 2009; Taonga Sabola ‘Iban uncovers land rackets’, *The Nation* 10 March 2010.

⁴⁴ Elah Nthala ‘Religious leaders urge govt to revise land law’, *The Nation*, 9 November 2009.

⁴⁵ Attributed to Mr. Felix Mangani, acting commissioner for lands. He reported as saying “This has resulted in a number of problems which include multiple allocations of plots, multiple payments of charges and fees, underpayments, overpayments resulting in payments of refunds, fake offer letters, fake certificates of completion, fake general receipts, missing files, missing information in files, difficulties in monitoring of covenants and their enforcement, and ultimately delays and unavailability in the delivery of land services”. See Dickson Kashoti’s article, “Lands ministry vows to curb graft”, *The Daily Times*, 22 September 2010.

⁴⁶ Statement attributed to principal secretary for lands a Mr. Fletcher Zenengeya in Dickson Kashoti’s article, “Lands ministry vows to curb graft”, *The Daily Times*, 22 September 2010.

⁴⁷ One cleric said “God gave us the land to own but we are not utilizing it. Instead, it’s foreigners who are benefitting from it” Elah Nthala ‘Religious leaders urge govt to revise land law’, *The Nation*, 9/11/2009.

Government should put strict measures. Some of us are greedy, we promote this. There has to be a law as to who should give land to foreigners, not as is the case now. That Land Bill has to be enacted. It will promote ownership as everybody will be able to register their piece of land.”⁴⁸ Yet, some sectors in Malawi hold the view that the law on land is clear: “The law is clear, when a foreigner is given land, there should be evidence that it was really advertised in the papers and that no Malawian came forward to buy that land.”⁴⁹ Sometimes the blame is put on foreigners who beat the system by conniving with Malawians, enticing chiefs or their people with large sums of money, hiding their identity, or marry Malawian women, and later dump them after acquiring the land.⁵⁰

Some analysts have drawn on the recent global discourse on land in Africa. Some NGOs, for example the Human Rights Consultative Committee (HRCC), has predicted occurrence of chaotic situations over land in Malawi similar to those happening in other countries in southern African.⁵¹ As the HRCC also observed “Those that have connections and money, Malawians or foreigners and the money-hungry land deal brokers, are taking advantage of the helplessness of the poor people. We are widening the gap between the poor and the rich because access to land is access to wealth.”⁵² Big parcels of land allocated to individuals and firms as freehold or private estates remain undeveloped. Most of the commercial properties in Blantyre city are owned by foreigners and multinational corporations. The state of affairs is attributed to the legacy of Blantyre as the colonial city⁵³ and

⁴⁸ Attributed to Inkosi Kwataine of Ntcheu by Frank Namangale, “Foreigners Invade Customary Land”, *The Nation* 14 September 2009.

⁴⁹ Attributed to Mercy Mulele, secretary of the Malawi Law Society, see article by Eliah Nthara “Malawians should have priority on land- lawyers”, *The Nation*, 11 November 2009.

⁵⁰ Attributed to Trasizio Gowelo, former Deputy Minister of Lands, Housing and Urban Development. See article by Frank Namangale, “Foreigners Invade Customary Land”, *The Nation* 14 September 2009.

⁵¹ There are concerns by CHRR over ‘unpatriotic officials’ selling land to foreigners, noting that: “If we don’t tread carefully on this issue, we might have a situation where Malawians will have no land in the next 10 or so years. This will lead to serious land problems which we cannot notice now. We can have a similar situation that happened in Zimbabwe.” See Grey Kasunda, “Human Rights activists back minister on land”, *The Nation*, 10 November 2009.

⁵² Charles Mpaka, “Malawi land up for grabs”, *The Daily Times*, 11 October 2010, draws on the report by the Human Rights Consultative Committee (HRCC) titled “Up for grabs: Land Access, Distribution and the Role of Parliament in fostering Land Justice in Malawi.”

⁵³ See also Taonga Sabola’s newspaper article titled, “Who owns Blantyre?” *The Nation*, 11 March 2010.

the current state of the land law which does not discriminate foreigners from accessing land for investment purposes.⁵⁴

In this wide ranging debate, there is an apparent absence of peri-urban land transactions.⁵⁵ The demand for peri-urban land for residential purposes and the magnitude and speculative nature of such land acquisition practices have not received significant attention in comparison to the requirements for land for farming in the midst of intense population pressure and the subject of dubious acquisition of land by foreigners. In the meantime what makes peri-urban land transactions important is that most of the people (about 84.7 per cent in 2008) live in rural areas (Government of Malawi 2008) and earn their living by farming. Prospects for accelerated rural-urban migration are also high. Harri Englund observed a few years back that rural-urban migration is characteristically a life style in which improvements in the village are pursued through a stay in town (Englund 2002a: 139). Currently, Malawi's urbanization rate is estimated to be 5.2 per cent, while the number of people that live on less than US\$1.00 per day is at 40 per cent, though 15 per cent of them are categorized as ultra-poor.⁵⁶ Straddling the rural-urban divide takes various forms, and most urban migrants maintain contact with the places of origin, the 'home', to which many wish to return at some point (Englund 2002a). Yet, many rural-urban migrants have over the years have opted to settle as townsmen or townswomen. Getting established involves acquiring land and investing in residential and various business activities, even if it means doing so by encroaching on state or private land or at the periphery, outside the administrative boundaries of the towns and cities, and on peri-urban customary land. The ambiguity of tenure in the peri-urban villages offers opportunities for disparate experimentation with different possibilities,

⁵⁴ A former commissioner of land, Necton Mhura, observed that "The Malawi law and policy do not say foreigners cannot get land for investment purposes. If Malawians don't want foreigners to get land in Malawi, then let's go and change the law and the policy". See Grey Kasunda's article titled "Human Rights activists back minister on land", *The Nation*, Tuesday, November 10, 2009.

⁵⁵ The exception is the demolition of structures erected on land belonging to Chileka International Airport. Demolitions targeted temporary structures, leaving intact two protestant churches, incomplete private house owned by a civil servant, and a permanent business structure. See Watipaso Mzungu's news article titled: 'Govt demolishes airport encroachers' stalls', *The Daily Times*, 22 March 2010.

⁵⁶ Sylvester Namiwa, "High urbanisation rate: Malawi's silent crisis", *The Nation*, 8 October 2010.

leading to shifting mixes of trajectories and strategies that draw on rural and urban resources in a variety ways (cf. Ferguson 1999).

The scope of this book

In the past it was common and acceptable practice to beg for land. In the current dispensation begging for land appears outmoded. The land sellers and the village headmen and even the state grapple with the contradictions presented by the normalization of the buying and selling of land. The growing acceptance of the practice implies that custom is never in codified form, but alive and changing. Yet in the orthodox sense, which is largely the position of the state, customary land is devoid of value other than that derived from its productivity or the crop yields and tree crops or the value of the residential and commercial properties erected on it. This position is evident in the valuation of land for purposes of compensating people living on customary land whenever they have to be relocated for reasons to do with giving way for public projects or private investments presumed to be and pursued in the 'public interests'. The assessors look into evidence of human occupation including food or tree crops and buildings. Compensation is made in respect of these not on the actual loss of access to the land. Here reference could be made to recent developments in Lilongwe and the Lower Shire Valley where villagers living on customary land had to relocate to pave way to the now abandoned girl's academy project sponsored by one of the celebrities from the west and one of the former minister's cattle ranch.⁵⁷ One could also make reference to the experience of a family living on the outskirts of Blantyre that had its 3 hectare piece of land and huts enclosed in a brick wall fence after the city council had allocated the land to a businessman of Asian origin without paying the former holders adequate compensation.⁵⁸ I have highlighted the payment of meagre compensations by the state despite provisions in the Malawi National Land Policy for

⁵⁷ A couple of years ago the pop star Madonna adopted two Malawian kids and pledged to construct a school for girls. There was controversy over the acquisition of land for the school project. Details are available in Mabvuto Banda's article titled 'Madonna's raising Malawi Academy: Villagers demand more cash', *Nation on Sunday*, 1 November 2009. For the former minister's cattle ranch see Deogratias Mmana's article titled, '400 villagers fight former minister, T/A, DC over land', *Weekend Nation*, 17 July 2010.

⁵⁸ This event happened a year after the introduction of multiparty politics. See Chinduti Chirwa, 'Charity begins at home', *The Nation*, 5 December 1995.

negotiation and payment of compensation at fair market prices for land as well as improvements on it (Government of Malawi 2002). These incidences suggest that, as Louise Perrotta observed in relation to the post-soviet Ukrainian de-collectivization, the notion that land is worth the price agreed between a willing buyer and a willing seller is a novel one (Perrotta 2000:167-8).

This study posits that customary land has value other than that of the arable crops, trees and buildings standing on it. In essence the value of peri-urban land is more related to its locational advantages than its agricultural value. In many cases peri-urban villagers sell land that is already harvested, and so the presence or absence of growing crops on the land is an improper yardstick for valuing such land. When selling land the presence of trees on the land is rarely considered as an indicator of its value. For example, in one of the transactions encountered in peri-urban Blantyre there were three small mango trees, several indigenous and blue gum trees. These trees never featured in the deliberations on the price. They were perceived of value as boundary markers. Yet in another transaction, three well grown mango trees in fruiting stage were portrayed as an added advantage to the buyer, while in another transaction the seller came up with two prices; one for the land and another for the fruit trees. These instances suggest that land sellers sell the ground and the buyers likewise buy the ground, which is a clear contrast to the discourse and the perception that land under customary tenure has no saleable value. The paradox is that when the same land is leased in transactions disguised as involving distribution or allocation, the title holder is free to sell it (and need not disguise the transaction) on willing seller-willing buyer terms. One would notice some degree of awkwardness given the acknowledged fact that the market value of agricultural land often exceeds its agricultural value, a benefit that poor customary land holders are often deprived of when compensation for land appropriated by the state or leased to individuals is not based on negotiated price between those losing and those gaining possession of it. As Louise Perrotta also suggests, although policy makers are aware of the need to accord exchange rights to landowners, their insistence on controlling exchanges evinces fear of 'free exchanges rights' and attendant loss of control (Perrotta 2000:168).

The advertisements for customary land by local and urban estate agents rarely mention the fact that peri-urban land is customary and no-alienable. The buyers and sellers are convinced that such land is saleable. Unlike in the

past when the transactions could be disguise by the use of the language of reciprocity, it is often said that there are few places in Malawi, if any exist at all, where one can acquire land free of charge, if it is not by inheritance. The reasons advanced in many cases against the selling of customary land are not based on the sacredness of the land itself, but material interests, fear or dislike of strangers and cultural intrusion. For instance, disapproval of seeing land being occupied by outsiders at very small economic return; or the fear that children and future generations may not have any land left for their use;⁵⁹ and in some cases disapproval of customs or cultural traits some settlers might bring with them, for example gambling, prostitution and excessive alcohol consumption (Kaitilla 1999:271 for the Pacific). Among the Gikuyu if one of the brothers in a family wanted to sell out his share of land, the relatives had the first option so as to avoid a stranger coming in their midst. The cost was that the seller's descendants lost all claims to ancestral land, and by that become strangers even among kinsmen (Kenyatta 1971: 35). Where resistance to the commodification of land is inspired by concerns related to preservation of customs, the paradox is that most versions of custom are selective. Such a selection often reflects the interests of actors who are in positions of power and control. As Goheen writes, "From the past, which presents multiple meanings and practices with a variety of interpretations in relation to the present, certain meanings and practices are selected to have meaning and efficacy and others discarded. Such selection is then passed off by the dominant group as 'the tradition' and 'the significant past'" (Goheen 1992:400). The fact that is too often glossed over is that the substance of custom is subject to wide divergence. Also, as customs have always differed, customs are further in a state of dissolution or are ever dynamically undergoing change (cf. Gluckman 1969; Kolig 1987; Lawson 1997). There is always a question as to which social spheres custom should rule and this is more evident in urbanizing contexts.

Ongoing practices in peri-urban Blantyre are by and large pragmatic adaptations. The practices might be situated along with changes such as population growth, peri-urbanization and rising demand for land, changing economic situation and aspirations, and the general swing in attitudes towards land. None of these aspects follow the text of custom or law.

⁵⁹ An exception is the Burunge of Tanzania whose interests in land are limited to its use in providing for the family, not as a precious resource to be handed on to future generations (Östberg 1995: 56).

However, the contemporary position of Malawi's land law unwittingly suggests that those with rights to use customary land exercise those rights temporarily until such a time when the state or some other rich man or woman, and citizen or foreigner, would claim that his or her interests in the particular parcel of land are superior to those of current customary holders or in the public interests. Recent events in the media and the experiences outlined earlier on suggest that the law on land and also its application is not free from the vagaries of personal whim. As Kandawire (1977) observed, the law perpetuates asymmetrical social structure as a way of preserving institutions which could lead to a cheap exploitation of land for the benefit of the rich. Peri-urban land transactions are, given that they are carried out in an environment that does not follow state sanctioned practices, perceived in negative terms as illegal or extra-legal as if they are carried under conditions of anarchy and devoid of normative order. On the contrary the actors' consider the selling of customary land as falling within acceptable parameters of custom. Some village headmen consider the selling of land as potentially strengthening their material and social positions. The populations of their villages are also growing and becoming heterogeneous. As will be discussed later on some sale agreements are prepared by experts at law (chapter 5). These aspects, singly and collectively, raise doubts about claims that the transactions could be illegitimate, notwithstanding the fact that the land parcels are not mapped, surveyed or registered with the state.

Various experiences and practices in peri-urban land transactions challenge narrow, dichotomizing or dualistic thinking like rural and urban, the rich and the poor, planned and unplanned, legal and illegal, formal and informal, but also the individual and community. Some of these dualisms miss out on the interconnectedness or conviviality of realities they define (cf. Nyamnjoh 2002 on agency). This is more apparent in analyses of peri-urban land transactions, which are often described as accelerated by the demand side, the urban elites seeking to buy up land from the rural poor, either for personal use (residential or commercial) and sometimes for speculative purposes (cf. Cotula and Neves 2007; Kaitilla 1999 for Asia and Pacific; Ubink 2006; Arko-Adjei et al 2009 for Ghana; Briggs and Mwamfupe 1999 for Dar es Salaam; Rakodi 2007 for Kampala and Enugu; Swindell and Mamman 1990 for Sokoto). Although peri-urban land transactions provide half or more of all residential land, more especially in African cities, the bias placed on the demand side has often led to research concentrated on

analysing the shortcomings of formal land administration⁶⁰ rather than understanding how people find their way amidst all the challenges (cf. Rakodi 2007). Following on this lack of understanding of real trends, land policy and administration reforms pursued in several countries since the 1970s have often been ill-informed. Besides being ill-informed the policy and administrative reforms pursued on this basis have been lacking legitimacy because they are not based on an understanding of the social rules and practices that govern how people act. As Rakodi suggests, land seekers find peri-urban land transactions, whether formal or informal and legal or illegal, more responsive to their demands and the viability of such transactions contradicts the view that there is only one type of land market. As the UNCHS (1996) also writes, 'illegal' or 'informal' land markets for housing are markets in the sense that in most instances the individual or household seeking a housing plot has to pay for it. This book points to the need to pay some attention to the land sellers as land owners with their own particular characteristics. Also, contrary to the view that peri-urban land transactions reflect the absence of the state, the way transactions are negotiated often mutate in response to state policy and practices (cf. Marx and Royston 2007; Torres 2008). Further, as Karl Benediktsson writes for Papua New Guinea, "the markets so created function through semi-customary institutional arrangements, rather than fully fledged individual titles formally backed by legislation and power of the state" (Benediktsson 2002:263). For these reasons it is pertinent to suggest that while reflecting on the legitimacy of peri-urban land transaction the key issue should not be whether land rights are formal or informal, but whether they are transferable or not (cf. Lanjouw and Levy 2002). As shown at various points in this book it is the transferability of peri-urban land that actually attracts a diversified group of land buyers and also of intermediaries. Yet, as most of these land transactions take place outside the purview of state sanctioned land management practices, very little is known about how these arrangements

⁶⁰ Scholz (2002) observed that formal land administration takes too long to meet the demand of applicants, and the process requires huge outlay of capital, manpower and equipment, providing the fertile ground for informal land transactions. Apparently, the urban poor, as well as low-middle and middle income groups rarely benefit from access to land provided by the public sector and the formal private sector, and in most African countries public provision of serviced land and housing is steadily declining with the exception of South Africa (cf. Durand-Lasserve 2004).

work, and the extent to which such transactions always work to the benefit or disadvantage of various actors.

This book shows that peri-urban land transactions include various practices such as inheritance, borrowing or renting (*lendi*), begging and gifting (*kupempha ndi kupatsana malo*), swapping of fields (*kusinthanitsa malo*), and selling (*kugulitsa*) or buying of land (*kugula malo*). Since this book focuses on the selling and buying of land, the other practices are mentioned and discussed as part of the context within which the selling and buying of land actually take place. The functioning of customary tenure, foreign land acquisitions, the land law and the political economy described in the preceding sections are also part of the broad context. In this enterprise my principal interest lies in the actors and the practices. That is, on who is involved, not involved, and the ordinary practices along which the actors interact, negotiate, contest and legitimize the transactions. Central to this endeavour is my desire to unlock the intricate relations involved, how the actors connect and situate their actions in relation to wider social issues and structures, and also how they “grapple with increasing uncertainties and insecurities” (Nyamnjoh 2006:2) in creative, negotiated and transformative ways.

Various actors in peri-urban land transactions play agentive role in manifold ways. Suffice to state that the process of selling and buying land includes the intention to sell, the search for the buyer(s), which may entail engaging one or more intermediaries known as estate agents (*dobadoba*), the exchange of money or other items of value, and the signing of written sale agreement. Often, those who sell land (sellers), those buying it (buyers), village headmen and intermediaries (real estate agents);⁶¹ make reference to various norms, which they see as guiding their actions, strategies and sometimes which they profess to follow (cf. Holy and Stuchlik 1983). Each category of the actors named here represents different dimensions of agency and therefore each category intersubjectively generates and reproduces meanings. As practices and also responses to the practices may not always fit neatly with perceptions of normality, disagreements are a recurring phenomenon. I will be exploring disputed situations and disputes resolution. Pertinent is the question on how the sellers are eventually reorienting to

⁶¹ In legal terms the ‘agents’ act for another or conduct business for another party known as the principal (cf. Byrd 2009:12). In this thesis agents are a category of actors who ‘go between’ sellers and buyers.

changing situations. This aspect is explored on the basis of the participants' own words and actions, conventional and intentional relations, and every day symbolic and material practices.

The remainder of this book is divided into eight chapters. Chapter two describes my methodological perspective and fieldwork experiences. My methodological perspective is grounded in the challenge of how to explore the lived experiences and practices of the actors, including aspects that underscore their role as agents with situated agency. The relevance of the theoretical concept of agency is that actors actually shape the social and cultural context within which the transactions effectively take effect. The outline of the methodological position is then followed by a description about gaining access to the field and making sense of its dynamics, more in relation to my experiences with regard to data collection and to a limited extent on data analysis. I have also provided my reflections on ethical issues and dilemmas surrounding the fieldwork, the relevance and limitations.

Chapter three turns to the research setting, the matrilineal villages within the peri-urban of Blantyre city in southern Malawi. The goal is to outline features that are vital to getting the story such as the geographic location, the population, social organization and economic activities.

Chapter four explores the commodification and objectification of customary land as experienced and practiced in peri-urban Blantyre. In particular, this chapter delves into the reasons behind the proliferation of the buying and selling of land. It starts with an overview of the prevalence, and then continues with the process of selling land. The sellers and the buyers are described, and the process of buying and selling is illuminated with detailed first-hand accounts about the pricing of land, negotiation of land price, and payment terms. The transactions take place in a context characterized by various webs of social and economic relations. In principle, the transactions entail permanent alienation of land and there is no attempt to disguise the process as short term rent or indefinite transfer of the land with a possibility that the land will eventually be recovered.

Chapter five dwells on custom(s) and practices. Custom is a recurrent idea interspaced throughout the thesis but this chapter dwells on how ideas of descent-based ownership of land and the begging and gifting of land are currently understood, negotiated and applied with a high degree of fluidity relative to what custom would allow. Like the concepts of 'agency' and 'creativity', the nature of custom as a contested concept will be evident in the

context of my argument. Other issues examined in this chapter include the practice of written sale agreements, the place of witnesses, the paying of signing fees to village headmen and the leasing of land. These aspects effectively represent everyday practices understood as “ways of operating” or doing things (cf. de Certeau 1984: xi). These practices convey and to a greater extent extend a particular understanding of custom as a system of legitimization and sometimes de-legitimization.

Chapter six delves into disputes and dispute resolution. The theme of disputes cuts across many of the relations and relationships discussed in all the chapters of this book. However, this chapter examines land disputes as manifestation of disagreements over certain aspects of ‘custom’, for example, kinship based obligations and entitlements, and over the socio-political position of traditional leaders, whose positions are linked to land ownership and so carry obligations that are equally sanctioned on the basis of custom. Land disputes develop over time and sometimes such disputes become more or less acute in response to other developments. For this reason this chapter pays attention to the interface between customary and state institutions in understanding dispute settlement, the place of the courts of law, the department of legal aid, and that of the state police. In a nutshell, this chapter shows that the selling and buying of customary land in the peri-urban villages is in effect one of the arenas for contesting norms and a domain in which society-state relations are eventually constructed and negotiated.

Chapter seven turns to the role of intermediaries who are popularly known as estate agents. My intention is to illustrate how estate agents contribute to the commodification of customary land in peri-urban villages, but also how they are perceived through the relations forged with the sellers, the buyers and the village headmen. The estate agents are interested in the transferability of land only, and so there are questions as to whether they are speculators or conmen. Different patterns of social organisation emerge from the links, networks, interactions and negotiations with the other actors, each of which have virtually self-interested economic agendas.

Chapter eight turns to the use of the land money relative to the consequences of alienating land. It begins with analysis of using the land money in order to make ends meet, and then it turns to strategic uses of the land money such as the building of better houses, buying of driver’s licence and buying of vehicles (lorries). Later sections look into the challenges of having no land to live on, the pressure of having to relocate and the socio-

political position of village headmen. In sum, chapters 7 and 8 focus on how the intermediaries, land sellers and village headmen intentionally and actively pursue particular self-interests. The outcome is not predetermined, but emerges in the course of interactions.

Chapter nine pulls together the main ideas presented in earlier chapters. Here I reiterate that customary land continues to be regarded as a resource with use but also exchange values. The bottom line is that the commodification of peri-urban land does not imply that peri-urban land circulates as moveable commodities or gifts would, but that the relations to the land undergo intense transformation relative to the intentions and interactions of various actors. Perceived as responses to everyday realities the transactions are in essence creative responses to changing needs and aspirations that are also embedded with wider social issues and structures. A notable feature is that repeated transactions transform social norms and through that peri-urban land transactions are eventually a social space with its own particular social dynamics.

Chapter Two

The Researcher as Participant: Method, Theory and Limitations

Introduction

Investigating peri-urban land transactions presents difficulties because of the official position that characterize such transactions as 'illegal'. Participants are sometimes reluctant to talk openly about the transactions except where there is sufficient trust. This chapter provides an account of my research by narrowing on the means by which the investigation that informs this book was carried out. It highlights the problems encountered and how I attempted to address them empirically and analytically through my role as researcher-participant. For this reason, it will be seen that this chapter highlights the fact that actors' behaviour in peri-urban land transactions is studied in everyday contexts, rather than under experimental conditions generated explicitly for the research. The selling and buying of land are in essence practical actions informed by practical reasoning of the actors as they live their ordinary life. Hence, this chapter wrestles with questions about how individuals interacting with other individuals through existing institutions in their everyday life exercise choice, and create and maintain opportunities for the smooth conduct of such land transactions. For this very reason, although this book builds on a whole range of sources, ethnographic fieldwork provides the bulk of its findings. The data arises from sustained observation, participation in everyday life and conversations with the research participants. This aspect is made explicit in the first part of this chapter where I have dwelt on the main methodological components of the study. I have drawn on theoretical ideas like the everyday life, agency, and social networks. In my treatment of these notions I do not make clear cut distinction between method and theory given that the two build on each other in varied and complex ways. My description of the approach used here is followed by a more detailed discussion of my fieldwork. Here focus is on the identification of the participants and the actual collection and analysis of my data. Ethical issues, the relevance and limitations of the study are presented thereafter. In a nutshell, this chapter attends to three specific issues, among significant others, namely: What

sources of data were employed? What analytical techniques were used? And, what were the relationships between the researcher and the people studied? (cf. Hammersley 1990:30).

Everydayness of peri-urban land transactions

Initially, my goal was to investigate patterns and change in rural livelihoods portfolios⁶² in Malawi. With some exceptions, many people in rural Malawi are not able to engage productively, and so many families experience food insecurity between the months of December and February, a period which is also accompanied by financial distress (Chirwa et al 2006; Kulemeka 2000). Very often desperation leads to liquidation of productive assets, one of which is land. As land is the meeting space for various socio-cultural and socioeconomic relations as pointed out in the first chapter, peri-urban land transactions present multiple symbolic and material realities and meanings, which have not been adequately explored.

For some time, land in the selected peri-urban villages has been governed by matrilineal family norms. Yet, in the present dispensation land is sold by the villagers, men and women alike. The transactions are sometimes disguise using traditional symbols. My fieldwork served as a vehicle towards understanding such transactions as one of the ordinary realities, primarily from the everyday practices. For de Certeau everyday practices are ways of operating or doing things (de Certeau 1984). Therefore everyday practices are not obscure background of social activity in everyday life. As a theoretical construct the notion of everyday life is also central to Alfred Schutz's phenomenology (Nasu 1999; Natanson 1986) and Harold Garfinkel's ethnomethodology (Psathas 1999). In essence everyday life is the lived actuality (Highmore 2002) but also the taken-for-granted arena within which social reality is constructed as meaningful experience (Goffman 1959; Prakash 2008; Vannini 2009). The everyday life is also unquestioned space of

⁶² My focus on land transactions was influenced by the feedback in the context of the 2009 Winter School in Basel and a few months later in the Mittwoch Kolloquium. Chambers and Conway's (1992) suggest that livelihoods comprise of capabilities, assets, and activities, while Scoones (2009) point that livelihoods is a mobile and flexible. It can be attached to other concepts to construct fields of development research and practice, for instance, locales (rural or urban livelihoods), occupations (farming, pastoral or fishing livelihoods), social difference (gendered or age-defined livelihoods), directions (livelihood pathways or trajectories), and dynamic patterns (sustainable or resilient livelihoods).

routines, where the new becomes the conventional, the unfamiliar is rendered familiar, although the familiar could also be defamiliarized and the routine made or appear strange. Hence, the everyday life represents space of improvisation, change and resistance (Prakash 2008:12).

The problem for the social scientist is finding out how actors in their daily life experience their everyday life (Nasu 1999 on Schutz and the sociology of everyday life) or how orderliness in the organization of human actions is achieved as achieved and negotiated phenomenon (Psathas 1999 on Garfinkel and ethnomethodology). In essence, how human beings react to the nature of reality (ontology) reflects the meaning assigned to it. On this connection Maria González writes that “The nature of what we believe is not only real but also the powerful determinant of all we see. Our relationship to what we know is equally influenced by the assumptions we hold about the nature of reality” (González 2003:77). In practice this epistemological relativism translates into data collection methods such as participant observation, conversations and interviewing, analysis of records, texts, material objects, and reflection and introspection (Vannini 2009a). O’Reilly (2009) emphasized the significance of direct and sustained contact with participants within the context of their daily lives, watching what happens, listening to what is said and asking questions. The importance of such an approach was described earlier by an American sociologists Herbert Blumer in the following words, “What is needed is to gain empirical validation of the premises, the problems, the data, their lines of connection, the concepts, and the interpretations involved in the act of scientific inquiry. The road to such empirical validation does not lie in the manipulation of the method of inquiry; it lies in the examination of the empirical world” (Herbert 1969:34 cited in Henemaayer 2009:157-8).

My examination of the empirical world of the various actors involved in the buying and selling of land in peri-urban villages of Blantyre suggests that the selling and the buying of land is informed consistently by the development (*chitukuko*) discourse or lack of it, the desire to be modern, sometimes to be different from others and improved, presumably because land has been the major resource upon which the peri-urban villagers have constructed livelihoods and development aspirations for many years. The land sellers claim pursuing development perceived in terms of the income generated through selling land that is often used to make ends meets (buy food or pay school fees and medical bills, among others), but also build

‘better’ houses, buy driver’s licences and vehicles, and sometimes squandered. This is also evident in the association that villagers make between people buying land and development, especially the use of it in the building of modern houses, opening up of businesses which provide employment and also symbolized by the new owners’ ability to own and pay for modern amenities such as electricity and piped water, among others. On their part the land buyers often speak about buying land and building houses for residential use or business as both ‘doing’ development (*kupanga chitukuko*) and quite often as becoming established (*kukhazikika*) in a new place. On their part the intermediaries claim being into the business of buying and selling land for the money it brings. Intentiveness or intentionality (Cairns 2004 on the theory of intentionality {*intentionalität*} in Edmund Husserl’s phenomenology) are in essence core aspects to understanding peri-urban land transactions. As Till Förster writes, a discourse like this has decisive effect on social reality if understood as how the actors perceived the world and how they attribute meaning to it (Förster 2009). In peri-urban land transactions agents’ preference, either as individual or social preference, counts for what happens or what does not happen.

Major concerns in the development discourse are the reproduction of social inequalities; disparities and the creation of winners and losers (cf. Cohen and Dannhauser 2002). Richard Wilk described the development discourse as facing philosophical contradictions and inconsistent view of human nature. Development anthropologists, for instance, celebrate the ability of people to make rational and creative choices, to face adversity and overcome it; while on the other hand, the same people are portrayed as hapless victims who are sometimes not responsible for their own actions (Wilk 1996). These two dimensions about human nature coexist in the selling and buying of peri-urban land. However, as Wilk further observes, there is a tendency to avoid asking “why people are sometimes one way and sometimes the other” (Wilk 1996:21). As Wilk also suggest, this ambivalence between people as *agents* or as *victims* arise because some very basic questions about human nature are unasked and unanswered. Often, fieldwork yields descriptions of routine activities, patterned behaviour, details about individuals, kinship rules, economic activities, shared belief systems, and rituals, but fail to ascertain cumulative knowledge acquired through years of attentive doing and observing (Hirschkind 1991). Christina Toren writing on ‘how do we know what is true’ notes that the gap or clash of understanding

between researchers and research participants is an anthropological commonplace. In her view what is less often acknowledged is the profound incommensurability between researchers' own ideas and those of the participants (Toren 2007). Where little attempt is made to combine observation with efforts to make sense of the observed conspicuous gaps are often filled with preconceptions derived from imaginations or cultural experience of the researcher, probably as Hirschkind (1991) put it earlier on, because ethnographers have never had to earn their living the way their informants do, and have no basis for knowing what it actually entails.

The question that I grappled with throughout and soon after my fieldwork has been whether it is possible to understand land transactions without having had direct involvement? Being insider from the point of view of being 'native' of Malawi, I had less trouble grasping and making sense of the prevailing norms and customs about land tenure. What I needed to engage with more were the everyday practices, and how the practices draw on, contest and also contribute to the reconstruction of normative claims. I tried to focus on generic understandings of the actors' everyday life (cf. Hanemaayer 2009). I treated various interactions as intentional and strategic as well as creative responses to life situations (cf. Haram 2004). The rationale for this mode of engaging with the actors draws on my perception that in a broader sense peri-urban villages represent the fusion of the urban and the rural. The fluidity of this environment structures some of the decisions and actions the participants make. A known fact is that land use practices and population dynamics are in a state of change and these traits influence how participants in land transactions act relative to various values, norms, and perceptions they may claim to hold about land in notable and remarkable ways. This fluidity of emerging relations provides opportunity for analysis of everyday aspects of life from diverse angles- interpretive, cultural, textual or postmodern, political economy or historical (cf. Peters 2002). Then my focus was on interactions among the actors, the meanings and contradictions inherent in that interaction, what has been described as the actor-oriented perspective (de Haan 2010; Long 2001).

Actor-oriented research, as Leo de Haan suggests, is a type of research that describes and explains the concrete actions of social actors, mostly individuals, households or families, but sometimes also larger units (de Haan 2010). This approach has been used to explore everyday reality of how social actors are locked into a series of intertwined struggles over resources,

meanings and institutional legitimacy and control, in contrast to determinism, linearity and institutional hegemony that dominate structural, institutional and political approaches (Long 2001). de Haan (2010) adds that for actor oriented research the problem statement can be of a socio-cultural, socio-economic, political or even ecological nature. The problem addressed in this book combines socio-cultural and socio-economic issues.

Most of the actors, despite of limited knowledge about formal rules (state laws on land and rules of market economy), are capable of playing many different roles at the same time but also of representing different meanings in different relationships (Lewis 2003). Given this situation the world seen by the actors is sometimes not the same as the world seen by observers. As Ray Abrahams once noted in relation to law and order in rural Tanzania, there is always a paradox that sometimes anthropologists whose fieldwork motto is participant observation often seek to portray ideal relations as if the people are not intellectually and morally capable of making sense of what is going around them (Abrahams 1989). Hence, as Abrahams also put it, it is important to recognize that not all participants' interests are the same, and that consensus may be weaker than some actors and observers might sometimes wish to assert. This lack of consensus among the participants calls attention to the co-existence of multiple realities within the research situation, which in theory makes it also problematic if one attempts to look for unadulterated emic position. As Karen O'Reilly suggests, it is often problematic to achieve "the naïve distinction between insider and outsider" (O'Reilly 2009:111). For this and several other reasons before it I do not make a clear cut distinction between insider (emic) and outsider (etic) positions. This position does not rule out the possibility of emergence of congruent, overlapping perspectives among some or many actors through participation in same everyday activities.

Many studies analyse access and disposal of land in terms of compliance with formal rules, and assume essentially passive relations among local actors and in relation to the state (cf. Rakodi 2007). The inconsistency is that rules define normality, but practices rarely follow the text of written or unwritten rules. The actors make choices that translate into purposeful actions in their own perceived interests. Often the choices reflect the actors' intentionality and rationality and sometimes often tend to manifest creativity at many levels, at the level of the group and the individual (Giuffrè 2009). The actors may not share the same interpretation of the events as "rival themes are

thrust forward, and the same lines are used to justify contradictory claims and interests” (Lewis 2003:20). In any case the actors are not always prone to do what is expected of them. Yet, in peri-urban land transactions, such contradictions lead to open disagreements and sometimes disputes among different actors. The disagreements and disputes may manifest competing interpretations over agreements (verbal or written), rules, rights, norms, roles, and even procedures. Sometimes similar disagreements and disputes might also occur with respect to the status hierarchy of traditional leaders, ideas and values based on kinship, social obligations and to a limited extent in relation to the place of the state. These occurrences suggest that the actors are enmeshed, always engaged in various relations that reflect differences in power, inequality and competition, and so it is virtually impossible to imagine that the actors can be free or unfettered (Ortner 2006:130) but rather that their agency and creativity are produced by particular forms of social interaction (Giuffre 2009). As Emirbayer and Mische (1998) suggest agency is always a dialogical process, a fact that is made too obvious by the assertion that reality is often articulated and constituted and so everyday life presents multiple realities (cf. Nasu 1999). Yet the question lingers on the philosophical assumptions- whether agency or agentive power is located in the collective or the individual actor.

The term ‘agency’ appears elusive in many ways. It is often associated with terms such as selfhood, motivation, will, purposiveness, intentionality, choice, initiative, freedom, and creativity (Emirbayer and Mische 1998). Following on Emirbayer and Mische I will be using the concept ‘agency’ as referring to the process of social engagement informed by the past (iterational or habitual aspects) but also oriented toward the future (projective capacity) and towards the present (practical-evaluative) capacity. In this way, I will be showing how agentic dimensions, namely: iterational, projective and practical-evaluative; interpenetrate with forms of structure in empirical research. I will build on this understanding of agency as independent power of the actor to explore how participants in peri-urban land transactions deal with contingencies and uncertainties they live with and which are ever present in different guises and contexts of choice making. In this sense social action is oriented to basic cultural values but it can also arise in the course of social practice. This is true as shown on the meaning of agency by Emirbayer and Mische (1998: 968-9) that “as actors respond to changing environments they must continually reconstruct their view of the

past in an attempt to understand the causal conditioning of the emergent present, while using this understanding to control and shape their responses in the rising future.” It is pertinent to appreciate the place of norms and cultural elements, among others, as some of the structural elements the actors as social agents playing different roles engage with. For this reason it can be conceded that meanings and reasons are causes of various practices involved in peri-urban land transactions.

Taking the selling and buying of peri-urban land as a social practice, oftentimes the actors’ capacity to reshape outcomes relies on creation and maintenance of networks. Reliance on some form of network does not erode the significance of individual actors as agents, rather as Sherry Ortner writes on social agents, agents are always embedded in relations of solidarity: family, friends, kin, spouses or partners, children, parents, allies, etc. (Ortner 2006:130). The networks one finds in peri-urban land transactions are often based on face-to-face interactions or other means of communication, for instance the mobile phone and also the print media, which are eventually becoming, not just emerging, as important links. The transformative effects of new technologies on social interactions have long been recognized. For instance, the mobile phone is recognized as having significant potential in reshaping social realities just as societies are in turn reshaping it through various everyday forms of cultural and social appropriation (Bruijn et al 2009). The significance of social relations is that commodification of land does not exclude non-economic aspects; hence making room for culturally and socially influenced changes that allow for recurrence of ordinary and meaningful practices through which the actors’ agency is played out. This theorization and so to speak this mode of understanding shaped and structured in significant ways the course of my fieldwork.

Insights from fieldwork

My fieldwork was also influenced by Madison’s (2005) suggestion that methods are not isolated or immutable activities, but contingent on the purpose, fundamental questions, and the scene itself.

On many occasions I met different people in the villages who claimed having land that they were selling. Some were sellers, while others were estate agents. Often the land was described as good, though the definition of good is often a contentious one. Given this experience, there was little room to sit

and decide who to include and exclude in my sample. As James Ferguson asks in relation to his experiences in one Zambian Copperbelt bar, how can we analyse such a social scene? While Ferguson's view is that this sort of cultural terrain is too familiar to many anthropologists on their way to their purer and more authentic location "in the field" (Ferguson 1999:219), this was happening within my field and the question before me was how do I begin selecting and discriminating participants. The dilemma was heightened the day I closed my fieldwork. A point to be made is that I met participants with experiences and expectations that actually shaped the flow and structure of my fieldwork. One of the intriguing moments was the phone conversation with one of my in-laws who raised a number of questions about my eleven months fieldwork. Important and perplexing were questions about my sample size, the number of districts surveyed and the theoretical and empirical relevance of my study.

To begin with, my fieldwork was facilitated mostly by the contacts I established while already in the field, except in a few cases where some friends and acquaintances happened to be related to some of the people I had to meet, including some village headmen. Even in these few instances the meetings could be described as chance events. There was no random selection of participants as every bit of it seemed just to fall in place by virtue of being in the field (see Benediktsson 2002; Ferguson 1999; Flynn 2005 for similar experiences). I met one of the village headmen on four different occasions in a market place where he operates a mini-grocery store, and through him I was able to connect with several land sellers and win the confidence of one local estate agent. For these reasons my thesis is based on a non-probabilistic sample. The selection of participants could best be described as purposive. I relied on the snowball technique, also known as chain referral sampling. Participants whom contact had already been made drew on their social networks to refer me to other potential participants.

It will be noted that numerous works explain or provide readers with factors to consider when determining non-probabilistic sample sizes, but quite few provide guidelines for actual sample sizes (Guest et al 2006:61).⁶³

⁶³ From Guest et al (2006) it appears that Bernard (2000:178) recommends ethnographies based on thirty-sixty interviews; Bertaux (1981) recommends fifteen as the smallest acceptable sample size; Morse (1994:225) recommends at least six participants for phenomenological studies, approximately thirty-fifty participants for ethnographies, grounded theory studies, and ethnoscience studies, and one hundred to two hundred units of the item being studied in qualitative ethnology; Creswell's (1998) recommends between five

Initially I planned to have at least 30 participants, most of whom would have sold part or all of their landholdings. I also planned to talk to the spouses, children and other relatives of those who have sold some land, the real estate agents who have been involved as intermediaries and the land buyers. I also planned to engage the village headmen and their advisors, and government officials at the district and municipal levels. From this planning point of view the village level headmen, government officers and the real estate agents represented different state and non-state actors in the governance of the commodification of customary land. In total I planned to engage directly at least 70 participants. However, during my fieldwork I engaged more people than I had planned. I visited and conducted interviews in some 11 villages while following up various actors and transactions. However, the number of village headmen actually interviewed is five, here named Chikowa, Mwera, Mbanga, Mphwere and Jekete. I had the opportunity to interact with two chiefs. One of the two chiefs was then serving in acting capacity, but now a substantive chief has been appointed and installed in his place.

With respect to estate agents, peri-urban villagers categorize then on the basis of places of birth and residence. Those who were born, who grew up, or who live within the peri-urban villages are sometimes referred to literary as a child of the village (*mwana wa mudzi*). For the sake of this discussion I will be referring to these actors as local estate agents. Being a local estate agent is not a profession but a kind of social action cultivated as a result of growing up in the villages where the selling and buying of customary land is an unquestioned aspect of everyday life. Any person of reasonable age can claim to know someone selling land and could direct someone looking for land to a potential seller at any one time. But local estate agents make effort to know who might be selling land and also make effort to find out who could buy that land in return for some monetary compensation. The second category includes estate agents originating from the city, referred to here as urban estate agents. Most urban estate agents live and operate from Blantyre city. I involved a total of sixteen estate agents, of which 9 are based in the villages, while the other six are urban estate agents. I interviewed 18 buyers, but most of my accounts are based on 12 buyers. Between these 12 buyers a total of 30 parcels of land have been bought recently, of which 27 are in peri-urban

and twenty-five interviews for a phenomenological study and twenty-thirty for a grounded theory study; and Kuzel (1992:41) suggests that the sample should be dependent on sample heterogeneity and research objectives.

villages, representing an average of just over two completed transactions per head. Two of the land buyers bought four parcels of customary land in different villages, three have bought three parcels of land each in one or more neighbouring villages, three have two parcels of land in two different villages each and the rest have bought one parcel of land each. Some of them claim to have bought land within the city. For the sellers, buyers and estate agents, there were instances when some occupied different roles at one or different times. A seller in one transaction could be an estate agent in another transaction or village headmen could also be sellers or buyers or even an intermediary at different times.

A majority of the participants are a group of people described as peri-urban villagers. Some of these are land sellers, relatives to the sellers and to village headmen, workers at construction sites as brick layers or security guards, transporters, lorry boys, casual labourers, sand miners, artisan quarrymen, and traders operating by the road side. Three of the transporters had land that they were offering to sell or rent to others for farming purposes for one growing season or two. Other participants represent six state entities, a group that comprises of 14 persons drawn from the department of lands (2), police (3), District Commissioner's office (3), Legal Aid (1), Blantyre City Assembly (3), and Malawi Housing Corporation (MHC) (2).⁶⁴ Further, I interviewed one officer at the Anti-Corruption Bureau (ACB) and I collected some documents relating to anti-corruption activities.

Sometimes village headmen provided information on who was selling land at a particular moment or who might come next. In turn, sellers and estates agents were the main source of information on the buyers. Personal friends also provided leads to other participants and in a few instances arranged interviews. For the estate agents there were those I came across by sheer chance. This includes one urban estate agent I met in one of the villages. In my case I had arranged an interview with the village headman, while on his part he had also arranged with the same village headman to meet over a piece of land (field or garden) that some other villager was planning to sell. The village headman was acting as a link person between the seller and

⁶⁴ I interviewed officials at different levels in the hierarchy. My interest was to have those directly involved with matters related to customary land and land management. This was not the case with the police, MHC and the ACB where my interest was on land disputes and other elements emerging from the print media.

this urban estate agent. For the local estate agents, the first estate agent I contacted led me to meet several other local estate agents. I met three other local estate agents by calling the mobile numbers they had put on crude signboards advertising for land. Although I met the local estate agents via different channels, most of them interact at least in some degree. With respect to four urban estate agents, I met them by following the signboards erected along the city's streets. In one of these cases I was actually directed to that particular street by one of the local estate agents who had informed me earlier on about the symbiotic relations they have with some urban estate agents. Following up on advertisements for land in the daily and weekend newspapers allowed me to explore the universe of the real estate agents.

Finally, my selection of participants was strongly shaped by the connections which determined where I could go and with whom I could speak. Therefore, as Nyamnjoh (2005) also writes, data used in this book results from a multiplicity of intersubjective encounters with the actors whose agency is analysed in various chapters of this book.

Data and Data Collection

Since my major concern is examination of the commodification of peri-urban customary land, I focused on land transactions in the present (circumspective approach) and in the immediate past (retrospective approach) (cf. Murry 2001). I used the following methods: key informant interviews, observation and in-depth interviewing, collection of copies of documents and review of official records. In few circumstances I had interviews that approximate focus group discussion (FGDs). I meticulously took notes of my observations, sometimes during events and conversations, sometimes soon after they had occurred. I recorded my interviews, and took notes in English and Chichewa, depending on which language better expressed the ideas. Data collected using different methods complement each other well as demonstrated in the chapter on land disputes, where some anecdotal evidence is complemented by the documents I collected later on.

As part of observation, on a number of occasions I took interest in mundane aspects of village life with the sole intention of observing how everyday aspects of life at the village level are in general and sometimes in specific ways connected to the practice of selling and buying of peri-urban land. Observation entails in the technical sense perception through the

senses; that is, of a specific action be it a physical act or a speech act. However, physical movements are by themselves not an action, but constituted as an action by having a meaning ascribed (cf. Holy and Stuchlik 1983: 17). The observer needs to know its meaning, and to know the meaning, any 'observer' has to possess some pre-existing criteria for ascribing meaning. For this reason, as Förster (2001) suggests observation is, and ought to be, intentional, taking hold of the world, and therefore a kind of action that emerges as a conscious effort to focus on a previously selected object. I assumed and so operated from the stand point that everyday practices, as de Certeau (1984) also put it, are tactical in character.

I paid attention to how different actors relate to each other and to the land during land inspections, negotiations for the prices and also when paying or taking payment for the land, how the sale agreements (documents) and advertisements for land are laid out and the symbolism that they enshrine. In the peri-urban land transactions symbolism takes diverse forms, including status positions such as the position of the village headman or chief, symbolic materials such as written sale agreements, date stamps, better houses with corrugated iron sheet roof, driver's driving licence or the vehicles or lorries that are eventually acquired using the land money. For the verbal statements or "speech acts" (de Certeau 1984), I opted for semi-structured interviews. Such interviews offer room to develop and expand on responses, and to develop rapport with participants. I observed that in many cases negotiation, discussion and expansion of responses occurred freely such that information on rules governing rights in customary land is based on general statements, which I elicited through direct questioning and also from stories of particular events, many of which I did not witness. To this extent I would contend that unstructured interviews allowed incorporation of the participants' retrospective life experiences, beliefs and aspirations that have allowed contextualization of various issues. Perceived from a different angle the unstructured interviews were performances of a particular kind which facilitated the inscription and visibility of everyday lived experiences (cf. Denzin 2001 cited in Manderson et al 2006). As Ladislav Holy and Milan Stuchlik suggest, "In normal social life, people do not make verbal statements just to inform others of the notions they hold, but as a part of their purposive behaviour. Even a simple declaration or denial of knowledge may be an effort to create a specific impression of oneself. Verbal statements are not made in a vacuum, but in specific social encounters, in situations

involving other people” (Holy and Stuchlik 1983: 58). Suffices to mention, as James Ferguson suggests in relation to his informants in the Zambian Copperbelt, that I knew the participants in the way most urbanites know one another: “Some quite well, some only in passing, others in special-purpose relationships that gave me detailed knowledge of some areas of their lives and almost none of others” (Ferguson 1999:21). For those participants I was able to gain much details I have been able to construct some life stories. The stories are important as a means of appreciating how various events and relationships fit together with respect to particular land transactions.

The methods described above did not work well with government officials. Often there was a request for a questionnaire. I had prepared some questionnaires, but I abandoned them early in the process of my fieldwork having realized that questionnaires were not appropriate tool for understanding meanings and relations in peri-urban land transactions.

I collected, where it was not possible to collect or photocopy, I reviewed both personal and official documents. The documents include rule books for the management of land and housing allocations by the city assembly and the Malawi Housing Corporation (MHC), waiting lists for applicants for plots at the Blantyre City Assembly, and some sale agreements. I reviewed the register of cases of disputes reported to one village headman, and case returns reported at the local police station for the period of 24 months (January to December for the years 2008 and 2009). Cases reported varied in nature, and my focus was on those related to customary land issues. I collected copies (by taking photographs) of sale agreements from the local estate agents and the village headmen. Sale agreements are documents prepared and signed by the parties to land transactions. I collected a total of 53 sale agreements of transactions completed during my fieldwork, and some in the last few years. Despite promises to let me see the documents at some point, only two sellers and no buyer did so. The two sellers who provided me sale agreements are also local estate agents. It would appear that many sellers might have lost the documents. Some of the local and urban estate agents observed that they do not have the documents while others claim that they keep copies of sale agreements for reference purposes. The sale agreements illustrate various issues, including: the characteristics of the buyers (where they come from and gender), land prices, witnesses to the transactions, and the manner of involvement of the village heads. The sale agreements reveal underlying principles and practices, though the individual cases may not be

truly representative of more general trends. Other documents reviewed include memoranda from the Office of the President and Cabinet (OPC) and Ministry of Local Government to the district commissioners on procedures to follow when handling land disputes. Further, I collected newspaper articles on land issues. References of general and specific nature are made at various points and as appropriate to stories read from newspaper articles.

The importance of all types of documents mentioned here is quite monumental. As Martyn Hammersley and Paul Atkinson suggest, we need to think of contexts as involving documentary constructions of reality given that “documentary sources construct ‘facts’, ‘records’, ‘diagnoses’, ‘decisions’, and ‘rules’, that are crucially involved in social activities” (Hammersley and Atkinson 2007:212). As Hammersley and Atkinson further put it, sometimes the information from documents may be of a kind that is not available from other sources, though in other occasions the documents may provide important corroboration, or may challenge information received from informants or from observations. As I have demonstrated later, documents may also stimulate analytic ideas.

I used a digital camera to take pictures of scenes and sale agreements instead of photocopying. Using the digital camera was convenient and cost effective. Another aspects is that village headmen and the chiefs are often concerned with the practice of dubious photocopying of sale agreements, which in their view is a catalyst for some disputed claims to land. Asking participants to take pictures was problematic given the negative publicity the selling of customary land has attracted recently. Also, some villagers were concerned that in the recent past photographs of starving villagers or orphan children in tattered clothes have been used by unscrupulous individuals to solicit assistance that never reach them.⁶⁵

⁶⁵ One of the cases well known by the villagers is the transaction related to land meant to house an orphan care centre in one of the villages, which has been turned into a private business, including a bakery and paper recycling plant producing egg trays. Also, in “NGOs Reap off Donors” Stonald Kaphunda reports about an old man in central Malawi complaining that NGOs solicit aid on the pretext of supporting the elderly, yet rarely reach the intended beneficiaries. Zodiak online (2 October 2010). http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1138:ngos-reap-off-donors-&catid=1:latest-news&Itemid=55 (accessed on 2 October 2010).

Analysis of Data

Much of my data discussed in this book is qualitative comprising of words, actions and experiences in the everyday life of the actors. My interviews were in the Chichewa language, the national language of Malawi. From this perspective initial analysis of my data involved taking of notes, transcription of the recorded interviews and translation of the interview material into English. Transcribing texts proved time consuming, though enormously rewarding, while translating the texts into English proved problematic given the lack of equivalents for some of the concepts. I have retained the Chichewa concepts (in italics) and for that explanatory notes are provided. Other non-English terms used in the text are proper names. Most of the direct quotations attributed to the participants are (my) translation of the statements made in the Chichewa language.

My analysis has not been tied to the standard three phase formula: data reduction, data display, and conclusion drawing or verification. Instead, I have operated as Martyn Hammersley and Paul Atkinson suggest for the analysis of qualitative data that reducing, condensing data, identifying or isolating groups of common elements or categories, and meaning making should begin as the study begins and continue throughout data collection to the writing of the thesis or book. As they put it, “In ethnography the analysis of data is not a distinct stage of the research. In many ways, it begins in the pre-fieldwork phase, in the formulation and clarification of research problems, and continues through the process of writing reports, articles and books” (Hammersley and Atkinson 2007). I have continuously read through my field notes and transcribed interviews in order to develop descriptive and analytic categories and relations. I have operated in the same way with respect to the sale agreements. Drawing on Mitchell (1983:198) as cited in Mills (2005:141), from an analytical point of view the data presented in this book represents the wider context not because the cases consulted and presented here are statistically representative, but because the analysis is sound given the depth of the observations, relevance of emerging issues and prevailing everyday relations in the peri-urban. In other words, my analysis provides a conduit for engaging with the wider context and also with other scholars working along similar lines. By that my analysis moves beyond particularism, becomes more analytical, and “transcontextually relevant” (cf. Hanemaayer 2009:158). As Nasu (1999) also suggests the micro-situation is

always open to the macro situation while the macro-situation is in turn tuned to and within the micro-situation.

Relevance and Limitations

In the context of this book the relevance of my work is discussed in relation to how I came to know what I know, what Maria González refers to as accountability. In her view that I wish to pursue here, there are several key questions to it: What were the decisions and actions we made and took while engaging in our ethnographic research? While we discovered and opened to awareness and cultural knowledge, what were we challenged with? To what did we close ourselves? What was happening in the lives of the people about whom the story is told? (González 2003: 84). In attending to these questions this section opens up to some of the ongoing issues and debates surrounding qualitative research methodologies.

To begin with most of the actors I interviewed or interacted with were at first less enthusiastic to participate in the study. Winning their confidence required some assurances of my position as a researcher. The letter of introduction from my advisor in Switzerland was very much helpful when dealing with government officials- the District Commissioner, Ministry of Lands, Blantyre City Council and the Malawi Housing Corporation (MHC); where formal requests for data or interview are required before interviews can be granted. At the city assembly I had to wait for over one month to meet the officer assigned to help me through with the research. Owing to his seniority in that organization, or may be because that is the protocol, he directed me to the technical personnel who were very helpful by all means. In another government office, at the end of a long interview I chose to thank my host for accommodating me without prior appointment. In his reply he observed that “The people I work with are most often uneducated and they do not appreciate the need for booking appointment. Sometimes I have people from very remote districts with serious issues that have to be addressed urgently. What can you do in such a situation? You simply help!” These are some of the sentiments and personal encounters I was not prepared for, and there were times when I had no idea on how to respond appropriately to the generosity and sometimes the lack of it.

At the planning phase I envisaged few or no ethical dilemmas. However, the questions asked by villagers and the estate agents during my fieldwork

highlighted the significance of explaining thoroughly the objectives, methods, and perhaps the potential use of the research findings. For instance, there were instances when I was alerted to the potential harm of exposure of the participants given that the selling of customary land is considered unlawful. Also, at some point I had to contend with the challenge of how to treat information acquired without actually planning to do so and thus without having in the first instance explained the research process. A notable instance relates to my visit to one of the government offices where I found my host attending to two elderly men from one of the peri-urban villages. The two elderly men happen to be church elders at one of the protestant churches on the outskirts of Blantyre. Their purpose at the government office was to seek advice on how they could proceed with the leasing of the land on which their congregation has a church building and public run primary school. I followed the discussion closely as it related well with my research interests. Another government officer came in and joined the conversation, where among other things he pointed out that leasing customary land is problematic due to bureaucratic red tape and high levels of corruption. At the end of the conversation he asked if I had accompanied the two elderly men, and my host replied: "He is here on a different matter. He is a researcher. He is doing research on land matters. I presume some of the issues he is looking into relate to what you have said already. I guess he has already taken note of your sentiments." Instead of regretting having said what he should have not, he replied: "No! Man, I did not exaggerate. You know me very well. What I have said is true; these people should be told the truth." The challenge is whether to take such sentiments as admission that corruption has reached high levels that nobody seem to care that there could be dire consequences for engaging in corrupt practices or these were comments from an honest insider displeased with how bad the situation is. On ethical reasons I gave the participants opportunity to make conscious decision on whether they would want information gathered this way contribute to the writing of this book. Those approached did not hesitate to agree.

Winning the confidence of the village headmen was particularly critical when it came to the issue of sale agreements. These are considered confidential documents. If they could land in 'wrong hands' they might be used as evidence that village headmen are acting unlawfully. That would lead to dismissal of some village headmen as it happened to one village headman in another part of Blantyre district. His dismissal is currently being reviewed

by the Department of Legal Aid, where the matter is whether he was removed appropriately. What I noted is that the names of the sellers, buyers, witnesses and also the price or terms of payment are often outlined on the sale agreements. The relevant question here is: Is it worthwhile exposing such sensitive information? I have resolved this dilemma by excluding identifiable particulars on the sample sale agreements appearing in this book.

More sustained contact and longer presence in the field is a necessary condition in winning and building research participants' confidence. When I inquired about sale agreements during my very first meeting with one village headman, I was told that the documents are released if required for CID work only,⁶⁶ or for the purpose of verification of particular land transactions. After a moment of reflection I asked if he could allow me to inspect the documents as a researcher. His reply was that "The one who has the keys for the drawer where I keep the documents is not here now. If you can come again I will arrange the documents for you. Had you given me notice of your coming, I could have made sure that the documents are available." On my next visit I was given access to three documents only. The same happened in my encounters with another village headman. It took more than four meetings to win his confidence. In fact, he allowed me access to the sale agreements during the last week of my fieldwork, during which he claimed that I am now a bona fide member of the village. He exposed me to loads of sale agreements clumsily packed in two black plastic bags, one small plastic box and a hessian bag. He observed that there could be over 300 copies of sale agreements. A point to be emphasized about sale agreement is the private nature and the confidentiality associated with these documents. Two local estate agents, here named Chitseko and Fanuel, provided me with more sale agreements. It was not difficult to win their confidence. I realized that Chitseko and Fanuel treat the confidentiality of the sale agreements lightly. These experiences highlight the importance of longer fieldwork in building rapport with the participants (cf. O'Reilly 2009).

In writing this book I have been reflective on how to deal with every bit of sensitive information. For example, concerns that some village headmen rip off their subjects by demanding high sums of money as signing fees, and

⁶⁶ CID stands for criminal investigation department in the police service. In everyday usage it refers to inquisitive attitude or action. Sometimes an inquisitive person is confronted with the question, 'Why are you behaving like a CID', informed by the mistrust of friends, kin and spouse cultivated under Dr Banda's rule.

also details of corruption within government departments. Although concerns about corruption is a matter that is already in the public domain, discussing it in a book and citing concrete examples would be perceived as exposing the officers to scrutiny or ridicule. This aspect also relates to some buyers. One of the buyers refused to be part of the study. He acquired two parcels of land along the main road and built two buildings within a short period of time. One of the two buildings has several rooms and he is running a bottle store, a grocery store and a saloon. One of the participants who claimed to be a former classmate to this businessman agreed to talk to him to agree to grant me interview, but he refused. As this participant noted, "He is not ready to be interviewed because he suspects that he might be under investigation on how he acquired the money. He is concerned that he might land himself in trouble by disclosing too much information. As a businessman some of his transactions are unlawful and so he would rather keep such information to himself."

The subject of land transactions is one that is often associated with disintegrative and serious socio-political implications. This is true even if peri-urban villagers talk freely about selling land and some estate agents have displayed signboards advertising for customary land. I will add depth by drawing on the experience I had with another local estate agent. After a 1.30 hours interview with Gwembe at a Chibuku (opaque beer) bar, he confessed that when we first met and fixed the date for that interview, he never committed himself to keep the appointment. He was uncertain about the reasons of holding an interview. He went to one of the village headmen for advice. As he put it: "When I was telling you to meet me today, I had already made up my mind that 'he will see, he will not find me there'. But after the village headman explained to me quite well, I understood. Even though your companion on that day is my old school friend, I had no confidence in his assurances. I am encouraged that the village headman knows you very well." This experience highlights the prominence of the position of traditional leader in daily life in the peri-urban villages of Blantyre and throughout Malawi. However, while this experience suggests also the need for character reference and the building trust with recognize authorities, a role that is often well played by those holding the position of traditional chief and of village headman, it poses the dilemma of disclosing the identities of other participants. I have negotiated this dilemma by using pseudonyms for

participants and the villages, except where reference is made to official documents already in the public domain.

Owing to the sensitivity of the land question, junior officials in government departments often preferred to refer me to their seniors, who would in turn push the matter to the junior officers. In most cases I had to bring a letter of introduction, but in one of the situations I was told to come again on the following day so that the senior officers could be informed and possibly attend to my questions. On the next day I learned that it is not possible to meet the senior person, and so the same person who told me to come again on the previous day attended to my questions. It would appear that there is a culture of fear and a high sense of uncertainty in the way officials in government departments dealing with land work. Those holding lower level positions claim that they are not conversant with some matters or are uncertain about recent changes, yet they are the same people who work directly with the public. The fear factor and the urgency to be politically correct might have influenced some responses. Through such encounters I have been able to follow up on some disputes and develop an analysis of the role of the courts of law, the police and the NGOs in a manner that is in essence exploratory.

Certain events could not be observed to their conclusion due to time constraints. This happened for a number of reasons. There were several deaths of people I knew and some were my close relations. I had to cancel some appointments with estate agents, government officials and traditional leaders. An additional factor is the uncooperative behaviour of some participants. In one of the notable cases I arranged with a nephew to one of the village headmen to meet the village headman. A day later he informed me that I could visit them at home anytime I was free, provided I inform them by phone using the mobile numbers he provided me. When I phoned five days later to fix appointment, he replied that the village headman could not meet me since his close relation passed on and burial had just taken place. He advised me to call again after two days. Later, I learnt that the family had decided not to entertain questions from me, ostensibly for reasons that bordered on fears of harm from the authorities for unlawful selling of customary land. Apparently, the village headman and others, including the chief of the area, was a couple of years before dragged to the high court for allowing a transfer of land that was disputed. I could not even interview the villager disputing the transaction given that doing so could have stoked the

dispute. Despite this experience, other village headmen were very accommodating, and they never complained that asking them questions about the practices was demeaning to the respect that is due to their rank. The wife of one of the village headmen observed with deference that: "Everyone has got his or her job. As for him, he was given this job. As village headman he has no choice, but to leave any other work he might be doing to attend to you as he would do with others."

My experience researching land transactions raises the methodological dilemma of how to position oneself with respect to the actors. One of the local estate agents interviewed, here named Chitseko, placed himself in the position of one knowledgeable enough and an authority on land transactions and therefore in better position than all other local estate agents to 'teach' me. On one occasion we were seated outside his house. In the course of interviewing him and inspecting the sale agreements the village headman for this particular village passed by. I was holding the voice recorder and a notebook in my hands, and the village headman out of curiosity inquired what the matter was. Chitseko replied that what was going on was an interview; he was teaching me. I did not dispute his claim because doing so could have affected the rapport. I was also looking for sale agreements and given that he was willing to let me have copies, challenging him on this account could have closed this opportunity. Later on, two days after a visit I had with Chitseko to another village, where I accompanied him to inspect land; he informed me by phone about a further reduction of the price. The way he presented it in the phone conversation baffled me: "The young man has reduced the price further from K220, 000.00; we thought is the last price, to K190, 000.00. How about this, is it not a good price?" Despite knowing that I accompanied him to meet with the seller in my capacity as a fieldworker, my inquisitiveness on the pricing of the land was later misunderstood as indication that I might want to buy that land. Then I realized that if I were to position myself as a potential buyer it could probably open more opportunities for actors to interact with me in a more open way, but I resisted that temptation.

Contacting the urban estate agents by mobile phone proved the easiest way to reach many of them. Whenever I chose to make phone calls formal greetings were usually followed by series of questions: who are you, are you looking for land or a house to buy or for rent? Every time I replied that I am a researcher, the next question was do you do valuations? It was necessary to

elaborate on the research process before making any request for interview. Although many expressed eagerness to meet me for interview, few were later committal. There is a case of one urban estate agent who cooperated at the start of my fieldwork, but later became a time waster. Later on I discovered that probably I was wrong in labelling him as the time waster. I was actually wasting his time since I was motivated or concerned with meeting him for the sake of gathering information that would provide or add value to my research and almost nothing to his own work as urban estate agent. On another occasion he asked if we could meet at a restaurant downtown Blantyre, while he knew he had a date with his girlfriend. This was a limitation to effective fieldwork. The choice of site for interview has been explained by Sin (2003) as having great effect on the dynamics, direction, and even content of the interview. I reasoned that holding the interview in the restaurant provided relatively anonymous space, less formal but still public, which in a significant way challenged my understanding of appropriate place, and also the need for confidentiality. Since I was eager to hear from him for the second time I obliged to meet him. I met him in the company of his girlfriend and his younger brother who joined us some 10 minutes in the course of the interview. He set the pace by asking me a few questions about the relevance and expected outcomes of the research? Then he asked me if I was planning to sell land, if I was planning to start my own business as estate agent. Then he asked how relevant the research is to me as the researcher. Having explained the research process for the second time, he expressed in 'vague' terms the wish that the research should connect him to some other opportunities. He moved on to explain the challenges of being estate agent-not having work because properties are not available. Then he pointed that Mondays are difficult for him because he does not have much to do in the office. Yet, previously he had informed me that he does not have or need a physical office. These questions gave me the impression that the work of estate agent is probably full of contradictions, some of which have been explored in chapter 7. The most provocative issue is what it means when researchers talk about relevance of their studies. That is, what are the parameters of 'relevance' of research? Is it relevance to the researcher, the participants, the funding agencies or policy makers? As Francis Nyamnjoh asks in his reflections on theorizing agency in and on Africa, "How often do we reflect on the relevance of our research for the lives of those whose agency we seek to understand? In other words, are the issues we seek to

research of importance to those who ‘innocently’ allow us into their lives, and to what extent have they consciously or unconsciously shaped our theoretical and methodological trajectories?” (Nyamnjoh 2007:334). The pertinence of research findings for the people subject to investigation is rarely considered (cf. Hirschkind 1991). This is not surprising given that sometimes ethnography is a kind of commodification and ethnographers produce texts to circulate and to provide them a living (van Binsbergen 2005a). In my case ethnographic fieldwork served the purpose of fulfilling requirements for doctoral degree in social anthropology.

The question about the relevance of my research emerged at several other points. One of my in-laws once inquired about the relevance of the study in empirical and theoretical terms. Earlier to that, village headmen, sellers and even buyers, questioned the relevance of asking, if not bothering, them to let me see sale agreements. The most insightful experience, if not a socio-political challenge, is probably what village headman Mbanga raised at the end of the two hour interview held at his mini grocery store. He suggested that the interview had made him reflect deeply and also speculate on what would happen when all the land in his village has been sold out. In his own words, he observed that while he was able to attend to my questions with confidence as the village headman of his own village, when all the land has been sold to strangers he will be ashamed to admit that he failed to oversee the continuation of the cycle whereby successive generations accepting land from the previous generations pass it on to the next. It dawned on him that selling land is like selling chieftainship. My fieldwork made him become conscious of sociopolitical dynamics. As Soyini Madison writes “The fieldwork question is provocative and ethically responsible, because it has the potential to unsettle the taken-for-granted, open critical awareness and to remember what was forgotten” Madison (2005:82).

My field work did not involve mapping or taking measurements of fields or gardens. I relied on my undergraduate training in land surveying to estimate sizes of some of the fields. I observed that in peri-urban land transactions the actual measurements of the land are not considered important by both the buyers and the sellers. What is important is whether the land is big or small, which is very subjective but very relevant to understanding how the sellers and buyers actually make sense of subjective elements of the transactions. It would have been surprising to the sellers and the buyers alike to see me taking measurements of the land parcels. The

actual measurements of the land become important only when planning to build a house and also when applying for the lease. In the first case, the interest of many is whether the house they are planning to build would fit on the land, while in the case of leasing the land the size of land is not even an issue to the applicants who perceive it as simply a matter of fulfilling bureaucratic requirements. On one occasion I was interviewing a university graduate. When I asked him how big the land he had leased recently is, he replied that he could not remember. Then, he added that the size of the land could have been an issue if he were a geographer. This experience is quite revealing. It implies that issues that matter are not always measurable. One would also pay attention to the low levels of literacy of the sellers and the fact that the land involved does not constitute of building plots but fields for farming purpose. While appreciating that such measurements would have added important dimensions to the study, with reference to how physical size of land relates to perceptions of size and also the pricing of land, doing so would have introduced a degree of objectivity that could have been misunderstood or distort the ordinary and lived experiences that I intended to uncover.

My own perceptions and experiences with customary land tenure systems as a native researcher might have prejudiced or made me underplay the sensitivity of some of the issues. That might have distorted my observations by taking for granted certain matters which a keen outsider could not miss (see O'Reilly 2009 for a critique on insider ethnography). My choice to pick and choose who to engage and what to report on would also raise questions about the extent to which such choices reveal more about me as the observer than what I observed. The challenge is how to tell the story, especially how to portray the situation without bias or without trivializing core aspects, while also not contributing to the negativity associated with persistence of superstition, where superstition is part of the daily actuality of the research participants. Should the participants' statements on beliefs and how the beliefs impact their relations to land be taken for granted as reflective of the lived intentions and actions? Also, how much attention should be attributed to beliefs and practices like sorcery and witchcraft, existence and the place of ancestral spirits and the occult in everyday life? The idea of inter-subjectivity as a fundamental condition of being human is pertinent here. As Christina Toren suggests, inter-subjectivity implies that we make meaning out of the meanings that others have made and are making (Toren 2007).

For some time I could not be included in activities such as paying or receiving money for the land, probably because of the lack of trust or discomfort having a participant outsider. Throughout my fieldwork some participants could at times switch languages from Chichewa to ChiYao, which placed me in difficult position. Switching from one language to another excluded me from some conversations, as much as it emphasized my status as the meddlesome stranger. In other villages there were times when participants could change the subject, and sometimes refuse to answer or provide direct answers to my questions. Also, lack of financial support for my fieldwork restricted what I could do and where I could also go.

Conclusion

The selling and buying of peri-urban land is a form of socio-cultural and economic space. Given the prevalence of the practice, the unfolding practices and relations herald new form of land governance, economic and social transformation at the rural-urban interface, and indeed point to transformation across a wide spectrum of issues and relations than ever thought before. Methodological and theoretical issues highlighted in this chapter emphasize this understanding, in particular, that the land transactions are part of everyday and ordinary life. This approach required delving into participants' self-interests and how they interpret, use and also make use of and challenge prevailing customs and rules, thereby creating opportunities for changes both to perceptions and practices that they sometimes passionately claim to subscribe to. As Martyn Hammersley once observed this situation points to the fact that research is a form of practice. Yet, the complex researcher-participants relationships outlined in the foregoing paragraphs highlight and also suggest that researchers must resist the temptation to see methodology as specifying a set of rules that can simply be applied to research practice (Hammersley 1990). Understanding the interplay between the roles of participant and researcher is paramount to getting a story as it also reflects my role in the reconstruction of peri-urban land transactions into the written text. The rest of the chapters reflect my choice about what and how to write on, but also the fact that research is complicated, messy, personal, and subjective (O'Reilly 2009: 110 – 11). As other scholars have also pointed out, for convenience informed by intense theoretical contemplation researchers subjectively shape phenomena when

relationships are condensed into chapters and subheadings (Hammersley and Atkinson 2007). As Martyn Hammersley (1990) also mentioned, such a choice often reflects what the ethnographer takes to be relevant, leaving out the rest. The next chapter turns to the background aspects of the research setting.

Locating the peri-urban: the socio-cultural and livelihoods context

Introducing the peri-urban

The peri-urban as a spatial category is a socially constructed non isolable unit. Often, it reflects challenges and the temporality of delimiting rural and urban spaces (Nkwae 2006). Perceived solely in relation to the outward expansion of the urban into rural areas, it is often associated with the spread of urban populations, though population growth is not the only reason for the growth of peri-urban settlements. As Torres (2008) suggests on the basis of cities in Latin American, even when urban population growth rate is low, many large cities in the developing world present significant peri-urban expansion because the dynamics that determine peri-urban growth are quite complex, and tend to involve a number of dimensions that may include inconsistency land regulation and taxation, and also infrastructure and housing policies. Quite often the administrative boundaries marking the rural-urban divide inadvertently symbolize inconsistent representation of reality (Storey 2005). Against this position is the misconception that the way of life in peri-urban areas is simply a reassertion of rural ways or parodies of urban practices, but without really being either (Simone 1998). This view embodies biased model “bound to modern Western assumptions about the use and political control of space” (Ferguson 1999:39) as much as it also underplays everyday practices, which blend the rural and urban worlds in creative and multiple ways. The creativity, different understandings and experiences of urbaneness, imply that peri-urban settlers rarely consider themselves and they do not try to live like ordinary villagers. Perceptions of and responses to peri-urban land transactions are also rarely homogenous.

The origin of the term peri-urban is obscure (Nkwae 2006) but its importance rose several decades ago as a result of the dilemma of delimiting rural from urban. For this reason, the rural and urban influence have led to proliferation of diverse terms such as ‘rurban’, ‘suburban’, ‘urban fringe’, ‘urban periphery’, ‘perirural’, etc (Nkwae 2006). The term ‘peri-urban’ is however regularly found in the literature and policy discussions even as the

key question remains whether the peri-urban may include land inside, or at the fringes of urban areas and land further away from the city, and also whether this concept may as well include both land that is formally or informally occupied. Budds and Minaya (1999) provided three alternative understandings of the peri-urban. Firstly, the peri-urban is perceived as an interface between the urban and the rural spheres, in which activities traditionally classified as 'urban' (e.g. industry) or 'rural' (e.g. agriculture) co-exist. The peri-urban is in this regard characterized by the encroachment of the expanding urban area onto the surrounding rural land, thus essentially and in significant ways affecting the livelihoods of small farmers. The impact on livelihoods is enormous because of the lack of institutional planning and management to deal with this newly-urbanizing area, as the city authorities consider the area to be rural and thus outside their scope, while the rural authorities regarded the area as part of the city and hence not responsible for it. Secondly, the peri-urban is seen as the periphery of the urban area, possibly areas where the city has expanded onto previously non-urbanized land. In this second sense the peri-urban refers to rural villages which are near to the city and are experiencing increasing connectivity, pressure and influence from it. Then the peri-urban is perceived as the source of potential migration to the metropolitan area and illegal settlements that threaten the protection of natural resources, including head-water areas (Budds and Minaya 1999). For this reason, peri-urban areas are commonly characterised as problem areas, with major problems experienced in the areas of access to clean water and sanitation infrastructure, and related environmental health problems. The attention to the peri-urban is guided by the belief that this area is often affected negatively by environmental problems, yet with little mechanisms for redress (Budds and Minaya 1999).

The peri-urban has further been defined 'as a locus of abrupt tenurial transformation' (Kasanga et al., (1996) cited in Nkwae 2006), where land is being transformed institutionally from rural to urban and as such it is in a state of transition from customary to statutory tenure. Iaquina and Drescher (2000) also cited in Nkwae (2006) perceive the peri-urban less as a geographical location but more as a state of mind or change in mental orientation. This hybridity, that the peri-urban may be both a state of mind and a zone (physical place) inspired others to describe the peri-urban as more difficult to understand and penetrate (Simone 1998). Simone suggested that the operations in peri-urban appear to be simply a reassertion of rural ways

or parodies of urban practices, but without really being either. Apparently, the fluidity of tenure, household composition, and movements in and out of peri-urban areas make effort to consolidate clear identities problematic (Simone 1998). Other scholars have pointed that peri-urban populations are 'complicated' or 'corrupted' and often do not want to co-operate with each other even when a clear rapid benefit would result (Robson and Roque 2001).

The current chapter draws on all these conceptions and representations of the peri-urban. Yet, it needs emphasizing that peri-urban growth in Malawi is not the same as upscale suburbanization in developed countries. On the contrary, most peri-urban growth results from colonization and development of rural land without the benefit of planning. In some cases such developments take place at great distances from key employment centres. In some cases such developments present awful sanitation conditions and significant environmental problems (see also Torres 2008). The growth of peri-urban settlements leads to the decline of land availability for farming and also the decline in food production, with growing landlessness becoming a cause of poverty and insecurity among hitherto rural people who cannot grow their own food crops. This last mentioned consequence of peri-urban growth is identified as a serious problem and cause of vulnerability to poverty since landless peri-urban residence lack alternative forms of earning a living, for example, through meaningful wage employment.

This chapter locates the peri-urban Blantyre, the villages upon which this study is based. The rationale of it is that to understand the process of peri-urban land transactions requires penetrating the lived-in universe of the peri-urban villagers. It starts with a description of the geography of the area before addressing classical anthropological themes such as social organization, kinship and the economy. Instead of a mere reporting, this section tries to problematize the social-cultural context rather than talking about it as something pre-given. Hence, this chapter shows that the spatial, socio-cultural and economic features are not static aspects of life to be taken for-granted. The most significant aspect is the ever changing nature of the context, which is nevertheless vital to getting right the unfolding story of peri-urban land transactions. Thus, this chapter will locate various dynamics that are by and large local in nature in a changing historical context solely to

emphasize that the wider world is always of considerable importance in peri-urban land transactions.

Geography and population Dynamics

Malawi is a land-locked country in southern Africa covering an area of 118,484 km² of which 94,276 km² is land, and the rest comprises of water, mostly Lake Malawi (Msilimba 2008). The northern half is bordered to the west by Zambia and to the east by Tanzania, and in its southern half by Mozambique both to the west and to the east (figure 3.1). Geo-politically and to a limited extent administratively Malawi is divided into northern, central and southern regions. Each region is divided into districts, and each district into areas under traditional chiefs. Of late, particularly in political circles, the northern districts of the southern region of Malawi have been referred to as the eastern region.

Major factors determining human occupancy have been the fertility of the soil, rainfall, and availability of water. With a significant population concentration in the south and the central plains, Malawi is sometimes referred to as one of the fastest urbanizing countries in southern Africa, though to date more people live in rural than urban areas (Government of Malawi 2008, 2009). The term urban population is often used to describe residents of the four cities of Blantyre, Lilongwe, Mzuzu and Zomba (Government of Malawi 2001). Many urban developments are now taking place outside the administrative boundaries of the cities and on land governed by customary tenure arrangements. This is the case in my fieldwork site of Blantyre district, one of the districts in southern Malawi, where the dynamics of the research setting relate to the proximity to Blantyre city. Blantyre city is located in the south east part of Blantyre district. Notably, some of the developments extend partly into other rural districts of Chiradzulu and Thyolo.

Figure 3.1 Map of Malawi



Source: http://www.lib.utexas.edu/maps/africa/malawi_pol85.jpg
 (accessed on 5 September 2010)

Figure 3.2 Map of Blantyre City



Source: Blantyre Urban Structure Plan 1999

Blantyre city is the oldest urban centre in Malawi in the modern sense, the commercial hub of Malawi, and for many years the largest urban centre (Jimu 2008). It developed as a colonial town planned by and for the white settlers. Several decades after Blantyre's establishment, Vaughan (1987) noted that racial segregation was enforced from the earliest date. Indian traders were confined to a small but central location, while Europeans lived in suburbs of landscaped gardens. Africans lived in villages in the surrounding areas, now townships of Ndirande, Mpingwe, Michiru and Chilomoni (Vaughan 1987). Africans were required to carry passes and letters from employers if they wished to stay in the township after dark. Plans to establish native locations were later considered as a means to enforce the ordinance against beer brewing and prostitution. Plans considered then emphasized the principle of segregation within the African urban community. As Vaughan put it, the intention was to divide native locations into "class zones" so that educated government clerks could not mix with the "raw Ngoni labourers" (Vaughan 1987:22). The division of Blantyre city into zones, which used to correspond to ethnic and racial separation, exists in the present. The zones correspond to economic class separation; into distinct parts for the rich, not so rich and the poor. The villages that existed in the 1940s, including several others such as Bangwe, Chilobwe, Chirimba, Kachere, Manase, Mbayani, Mulunguzi, just to mention some (figure 3.2), are to some degree islands of 'tradition' within the city complete with the institution of village headmen. In the absence of elected local councils, the village headmen appear to be the nearest legitimate authorities to which residents turn to for civic matters. Here land use does not conform to planning or land use zoning. Living conditions are characterized by overcrowding and sometimes poor sanitation (Blantyre City Assembly 1999; Kalipeni 1997 for earlier descriptions on the situation). While not overlooking the negative side these urban villages provide residents including some recent rural migrants with affordable housing. In fact they lower the threshold for the integration of the low income and recent rural-urban migrants into urban life. Moreover, the strategic location of these 'villages' inside the city provides residence with access to public services and sometimes economic opportunities.

The recent history of Blantyre city begins with the amalgamation of the townships of Blantyre and Limbe into the Municipality of Blantyre-Limbe in the late 1950s and later the elevation of the municipality of Blantyre-Limbe to city status in 1966. Then Blantyre city had a population of 109,000 people,

representing 2.7 per cent of the entire population of Malawi. Over the years Blantyre has been attracting migrants from all the districts of Malawi. Matope (2000) counted about 108,131 households in 1999, of which 16.7 per cent lived in permanent housing, 16 per cent in traditional housing areas (THAs), 55 per cent in unplanned settlements, and 12.4 per cent live in villages. Two decades earlier (1977), permanent housing accommodated 39 per cent of the city's population, while unplanned housing accounted for 44 per cent; but the figure jumped to 67.4 per cent in 1999.

My study site comprised of several villages located to north-west of Blantyre city along the two roads linking the city of Blantyre and the Chileka International Airport (situated about 18 km from Blantyre city centre) and Blantyre's satellite town of Lunzu. The villages are not named explicitly for the reasons recounted earlier on. Two notable physical features of the area are several small hills and streams which form important land marks and sometimes natural boundaries. Land adjacent to streams is used for cultivation and brick making, if the soils are considered good enough for this. The hills have been sources of wood for fuel or construction and sites for artisanal quarrying. Administratively the villages straddle the rural-urban divide. Here Blantyre city's boundary is physically demarcated by a river. A signpost erected near one of the bridges on the airport road symbolically suggests that the river is the outer limit of the city, and perhaps places beyond that are rural (Figure 3.3). Yet, conceptually it is problematic to fix the boundary, and as observed by other scholars, such administrative boundaries represent inconsistent understandings of social-cultural and economic relations (cf. Storey 2005). In this case the boundary does not adequately represent distinct economic and cultural differences between the people living on either side, except that the land lying within the city is gazetted as public land while that on the other side is considered customary land. This designation does not mean any noticeable differences in the way the land on both sides of the river boundary is administered, and more importantly, it does not signify remarkable differences on how the people living on either sides of the river go about earning a living. On both sides, activities traditionally classified as 'urban' (e.g. industry) or 'rural' (e.g. agriculture) co-exist. On either sides there are noticeable competing demands between residential, industrial, and agricultural land uses. Unlike other peri-urban areas where new developments on such customary land are not intense and usually of low value, in this part of Blantyre's peri-urban most of those

acquiring land are in relative terms not among the poor and the residential houses cropping up are among the most modern and quite expensive.



Figure 3.3 Signpost inscribes 'Now You are Leaving City of Blantyre' (Near Ngumbe bridge).

Relating to population dynamics, Malawi is a multi-ethnic nation. In the context of my fieldwork, there are two main ethnic groups, the Yao and the Mang'anja. The use of the qualifier main is important given what scholars have observed about the ethnic mix of Malawi and the southern region of Malawi in particular. For instance, writing prior to Malawi's independence A.J. Hanna observed on the basis of the 1945 population census that in the south, especially the Shire Highlands, members of four or five ethnic groups lived together in any one village (Hanna 1960:211). As Nurse (1978) also suggested nationwide there are populations with strongly contrasting descent systems living in close proximity with one another. For these reasons in some

cases classification of population and villages according to ethnic groups is sometimes misleading and to a large extent meaningless. This is a given outcome in situations of intense population movement and intense inter-ethnic marriages. In essence the actual configurations of ethnic patterns and relations represent convoluted historical and cultural processes, including but not limited to immigration with partial assimilation, voluntary and involuntary relocations prior to, during and after the colonial rule, intermarriages as already alluded to above and to the former institution of domestic slavery for which details are held and passed on orally given the sensitivity of the matter.

Each and every population and housing census carried out since independence has retained an item on ethnic group. The 2008 Housing and Population census suggests that Malawi has a total population of 13, 077,160. This population figure represents a significant growth from that of 4,039,563 enumerated in 1966. The median age of the population in 2008 happened to be 17 years, while 7 per cent of the total population comprised of infants aged less than 1 year, 22 per cent happened to be young people aged under-five years and about 46 per cent were 18 years or older. Only some 4 per cent were aged 65 years or older (Government of Malawi 2009). In terms of ethnic composition, the three major ethnic groups are reported to be the Chewa, Lhomwe and Yao. The Chewa people live mostly in the central region while the Lomwe and Yao live mainly in the southern region. Paradoxically, the summary on population groups in Malawi excludes the Mang'anja ethnic group. Mang'anja people are one of the ethnic groups living in the peri-urban Blantyre. They are not represented as a separate ethnic group in the national census and it could only be assumed that they are probably subsumed in the Nyanja or Chewa groups.

The population of many the peri-urban villages is growing, though there is no village specific data on which to build any substantive argument. National population trends for the 1998 and 2008 period suggest an inter censal growth rate of about 2.8 per cent per annum. In 2008 Blantyre rural had a total population of 338, 047 people on an area of 1,792 km², while Blantyre city had a population of 661,444 (Government of Malawi 2008, 2009). For the 1998 -2008 inter censal period, the growth rate for Blantyre city was equal to the national growth rate of 2.8 per cent, while the rate for Blantyre rural was 1.1 per cent. Population data for the whole district, which is disaggregated according to the area of the chief or traditional authority,

suggests a steady growth of the rural populations. This data pertains to the trends for the three previous population census cycles 1987, 1998 and 2008 (Table 3.1). The rate of growth in the population of the peri-urban villages should be higher than the growth of the rural population, and probably equal to or greater than the population growth rate for the city.

Table 3.1 Population for Blantyre District

Area	1987	1998	2008	Density 1987	Density 1998	Density 2008
Blantyre	589,525	809,397	999,491	298	402.3	-
Kapeni	56,247	73,055	72,236	246.7	320.4	-
Lundu	16,829	20,184	25,676	127.5	152.9	-
Chigaru	26,526	33,243	39,836	99.3	124.5	-
Kunthembe	22,023	26,703	33,770	47.8	57.9	-
Makata	11,919	13,656	15,991	192.2	220.3	-
Kuntaja	53,080	64,025	71,434	184.9	223.7	-
Machinjiri	22,525	21,430	22,297	346.5	329.7	-
Somba	47,256	55,048	59,488	222.9	259.7	-
Blantyre City	333,120	502,053	661,444	1524.2	2282.1	3007
Blantyre Rural	256,405	307,334	338,047	143	172	189

Sources: For the 1987 and 1998 figures (The 1999 Malawi Population and Housing Census, Blantyre District (Government of Malawi 2001b). For the 2008 figures (Population and Housing Census 2008, Main Report (Government of Malawi 2009). Data on population density for 2008 is provided at district and city level only. I could not calculate the density for the areas of chiefs due to lack of information on the size of each area.

The official population density for Blantyre rural is 189 people per km². It could be surmised that the population density in the peri-urban villages is much higher. The other dimension is the diversity of the peri-urban population given that urbanization brings together heterogeneous populations, which fundamentally affects autochthonous populations. Another important demographic dimension is that many autochthonous families have one or more members living in Blantyre city or other urban

centres and districts of Malawi. A small number of families have one or more members living and working outside Malawi, especially in South Africa.

Social Organisation and Kinship Relations

Gluckman cited in Mitchell (1956) suggests that the earliest western travellers gave the English word 'village' (mudzi) to groupings of huts. In the present, a village is an area recognized by its inhabitants as such, and in this sense the inhabitants view the village primarily as a social unit (cf. Nelson 1975: 91). The earliest account on village life in the Blantyre area is provided by Duff MacDonald writing between 1877 and 1881. MacDonald noted and wrote that "Usually the natives live in small villages, containing 10 or 11 huts, occasionally in large villages containing three times as many. They do not like to pack themselves closely" (cf. Mitchell 1956:35). Some three decades earlier David Livingstone, a Scottish missionary-explorer in Southern Africa, described the Mang'anja villages north of Blantyre in the Magomero area as a country rich in land, generally pleasant in climate, with friendly and industrious inhabitants (cf. Peters and Kambewa 2007). As the Society of Malawi (1989) was to write later, at this early time the local people led a simple life, characterized with cultivation and tending to cattle. In the present, villages range in size from a few huts to hundreds of dwellings. A village could also be a political unit. In this sense, a village is an area under the leadership of village headman. Village boundaries are often obscure to outsiders since family affinity determines who might be part of a village and who may not be part of it (cf. Hülsbömer and Belker (1991). Also as a political unit a village might either be recognized or not by the state as discussed later on. All the headmen interviewed lead villages that are recognized as administrative villages, and some appear in the colonial register of village headmen and chiefs.

The majority of the villagers in peri-urban Blantyre live in huts, or dwellings made of locally available materials and owner constructed. In the past such dwellings were made of wattle and daub, with floors of packed earth and roofs of thatch (Nelson 1975:111) but in the present most of the houses have walls made of green bricks and sometimes fired or burnt bricks, while the roof is mostly of grass thatch. Some houses are made of brick and roofed with corrugated iron sheets. As Nelson et al (1975) write, the use of corrugated iron sheets for roofing began in the 1970s when migrants on their

return from work in farms and mines in South Africa and Zimbabwe (Southern Rhodesia prior to independence) often built better and large dwellings. Given that many houses are grass thatched, a house with corrugated iron sheet roof is also described as a better house. Such houses are then perceived as a symbol of relative success.

Of late there has been an increase in the number of people living in rented houses. This includes people from other districts or areas searching for or doing piece work and sometimes young married couples who could not live in harmony with the in-laws. Renting out houses is a source of income for few enterprising local villagers. In a number of cases structures being rented out are those whose owners have moved to live and possibly to work in other places, though sometimes a kitchen may be rented out while a family turns to a veranda or some open space for cooking purposes on the three stone hearth.



Figure 3.4 Village Scenery



Figure 3.5 Grass thatched house in Mwera

Both the Yao and Mang'anja peoples are in principle matrilineal and uxorilocal residence is the ideal form of post-marital residence. Among the Yao the village is composed mainly of groups of matrilineal descent (*milongo*), sons in-law, daughters in-law, and other people who are not related to the rest of the villagers by blood or marriage, that is, strangers (*wakuika*) (cf. Ibik 1970; Mitchell 1956). In Mang'anja villages, the village comprises also of groups of matrilineal relatives (*mbumba*, *banja* or *mafuko*), sons in-law (*akamwini* (plural) or *mkamwini* (singular), daughters in-law (*akamwana*) and strangers (*obwera*). Those who descend from the founding ancestors or earlier settlers are therefore known as *mbadwa*. For this reason, *obwera* are unrelated to the central lineage except perhaps through marriage as is often the case of *mkamwini* (husband in matrilocal residence) or *mkamwani* (affinal woman).

To a large extent the distinction between *mbadwa* and *obwera* approximates to the distinction between 'first comers' and 'late comers'

(Lentz 2007; Meur and Lund 2005) or 'autochthones and strangers' (Lentz 2007) or 'Locals' and latter 'Incomers' (Skiffington 1991). It may also represent in essence the dichotomy of 'insider' and 'outsider' (Nyamnjoh 2006) at a more local or small scale level of a village community. As Kerry Skiffington observed in Highland Scotland, these labels retain flexibility as aspects of boundary making by residents in the villages. In the peri-urban Blantyre the flexibility is manifest in the subdivisions in the villages and clustering of huts or houses, which are not based solely on the presence or absence of descent or biological relationships. Social criteria, such as religious affiliation or history of friction among villagers may cause a group to settle together and at a distance from other groups (cf. Hülbsömer and Belker 1991; Nelson et al 1975: 91). For these reasons, the mbadwa and the obwera do not constitute easily discernible isolable groups. Unlike the situations in several west African countries where the relations between the original settlers and strangers are portrayed as characterized by intense and growing hostility over land (cf. Lentz 2007), the situation and relations in the peri-urban villages of Blantyre and many parts of Malawi have been relatively calm, though change and competition might be emerging due to importance of economic entitlements, cultural recognition and political representation (cf. Nyamnjoh 2006 on the growing importance of identity politics). It is in this light that the term obwera is sometimes derogatory and impolite. It is rarely used in the presence of the persons it refers to, except as an expression of anger or insult.

In principle strangers occupy land in a village with the consent of the village headman (*mwene* in Yao villages and *nyakwawa* or *mfumu ya mudzi* in Mang'anja villages). The conflict of male authority and uxori-locality is negotiated by the practice of *chitengwa* (where upon marriage the man takes his wife to live with her in his own village). Unlike in the past (cf. Mitchell 1956) where only men in charge of the women (the warden of the sorority group), usually their eldest brother called *asyene mbumba* in Yao villages and *mwini mbumba/mtundu* among the Man'anja, could bring wives to live with them in their matrilineal villages, in the present many men in the peri-urban villages practice *chitengwa*. The trend has little in relation to the availability of land in the man's village as assumed by earlier scholars (cf. Davison 1995; Takane 2007), but aversion towards uxori-local residence. Some young men in the peri-urban villages are averse to the position of the *mkamwini* as the billy goat. This is a paradox given that the peri-urban

villagers also profess uxori-locality as the proper form of post-marital residence.

Kinship is an important concept often used as a metaphor to distinguish those who belong or not, insiders or outsiders and also descendants of 'original settlers' and 'strangers'. On kinship terms, as also described by Sharp and McDowall (1993), brothers and sisters of parents are referred to as big or small father or mother depending on whether they are older or younger than the parent, while parallel cousins become brothers and sisters and nieces and nephews become sons and daughters. Attitudes towards kinships relations seem to be changing and constantly negotiable. As O'Laughlin (1995) suggests, lineages are becoming shallow, each extended family is potentially a new lineage segment, and long ancestral lines are identified with traditional leadership or local political power. Unlike research in the 1940s and 1950s which talked about splits between cousins or mother's sisters' daughters, now such splits take place between sisters' daughters. What this implies is that families are being defined in narrower ways which has implications on emerging claims to and disposal of land. The extended family system is subject to pressure due to progressive breaking up of long held family values, increased significance of individual decision making, and fluidity in the composition of family (cf. Norman and Baker 1986).

Female headed households are quite common, a trend that dates way back to the 1930s following the rise of migrant labour practices (cf. Davison 1995). Today, there are more female headed households (FHH) and also child headed households (CHH) due in part to the HIV/AIDS crisis and instability of marriages. For these reasons the family is, as James Ferguson suggests, an ideological and politically charged concept (Ferguson 1999:203). The family as the landholding unit could refer to both nuclear and extended relations traced matrilineally. In some cases the notion of 'family' is used so narrowly to refer to a group of siblings only. The role of a man as husband or father is almost invisible or sometimes non-existent, except where privately acquired land is concerned. Some families as conjugal units work smoothly with minimum tensions, but in others conflict and tension are the order of the day. Conflicts arise due to different factors some of which are drunkenness of the husband or wife, adultery of one or both spouses, childlessness (a married couple not able to have a child), sibling rivalry and difficulties with in-laws (cf. Lewis 1963 for the same observation in South

America). Increasingly some of the disputes are also linked to land transactions.

There is no agreement as to how long or how many generations are required to become mbadwa, though having at least a grandparent buried in the village graveyard is often given as indication that one is mbadwa. Hence, mbadwa refers to individuals or families that have some ancestral connection in the village(s). In some cases people from several villages use one graveyard and that use is not free of controversy. It is the local people in the villages, especially the village heads, who define who can be included or excluded, who does and who does not belong, and also who is a stranger altogether. The boundaries that are often articulated are in the midst of continuous change, and that relates as well to how mbadwa define themselves in relation to outsiders with respect to rights to dispose of land by way of selling it.

Status and Hierarchy in the Peri-urban Villages

The most noticeable status positions derive from an interaction between rank (village headman or headwoman versus commoner), seniority (older or younger) and gender (wife or sister in relation to a given man). All the villages in which I carried out interviews are headed by men and for this reason I will be using the masculine form for the title holder of the position of village head. The term village headman refers to the person who is the recognized leader of the village (see also Mitchell 1968 writing for the Yao of southern Malawi). Sharp and McDowall (1993) observed that each Malawian, although he or she may be living in a city, originates from a village whose highest authority is the village headman. Under the village headman are family leaders. Above the village headman is a group village headman (GVH) and then the chief, who is officially known as the traditional authority (T/A). During the colonial era traditional authorities were known as native authorities (N/A). The name of the traditional authority derives from the name of the original tribal chief ruling that area (Mitchell 1956:35), and in the context of matrilineal societies, the name is matrilineally inherited. For Blantyre district, there are eight traditional authorities (table 3.2). For the purpose of this book, the title chief(s) is reserved for the traditional authority only, and the term traditional leader includes the village heads, group village heads and the traditional authority.

The village headman is in principle the owner of the village (asyene musi in ChiYao or mwini mudzi in ChiNyanja) (Mitchell 1956). The group village head is owner of area (mwini dera) comprising a collective of several villages, while the traditional authority is owner of the country (mwini dziko or gogo charo). It is often claimed that the system of village headmen, group village headmen and chiefs draws legitimacy from “tradition” and are commonly referred to as “customary”, yet they have been profoundly changed by decades of colonial and post-independence government’s interference, and are subject to continued adaptation and reinterpretation (see Cotula 2007). In the case of Malawi, as Eyolf Jul-Larsen and Peter Mvula have aptly described it, “The institution has its roots back to the first years of last century when the colonial power established their administration, but it was only with the Native Authority Ordinance in 1933 and the establishment of indirect rule in 1936 that the authority was institutionalised” (Jul- Larsen and Mvula 2007:5). Malawi has more ‘paramount chiefs’ and chiefs now than at any point in time, even in areas that had no systems of chiefly authority. Such offices are not rooted in pre-colonial states. Where they are, some of the old chiefly titles were not political but commercial or religious in nature.

Each village is spatially divided into hamlets, each of which consists of lineages or families (mbumba or mtundu). Under the family, there is the individual, who has the right to use particular parcels of land, and also the right to exclude others from the land. It is for this reasons that Mary Tew noted decades earlier that within the villages there are clusters of huts, which do not form officially recognized administrative units, but are nonetheless villages under their own hereditary headmen (Tew 1950: 16). In the past conflict within a village and struggle for the position of headman was usually solved by splitting off and founding a new village, a development that is now uncommon, partly because of the lack of free land (Mitchell 1956; Nelson et al 1975: 92). What has been happening of late is the splitting of the villages into separate jurisdictions, each of which has its own village headman, and the reasons for splits are sometimes related to the politics of access to state resource. Yet, Harri Englund in “Vulnerable Citizens, Assertive Subjects: Human Rights and New Headmen in Malawi” suggests that the split of villages is not just a “a cynical attempt to benefit from the government’s programme of distributing subsidized fertilizer through traditional authorities” but also expression of the peoples wish to choose leaders of their own choice. As Englund also suggests, “by attaching themselves to a

headman they have chosen themselves, villagers engage in complex negotiations over the meaning and direction of democratization that has been taking place in Malawi since the early 1990s". Hence, "traditional authority, and the so-called customary law it is associated with, can encompass highly contradictory tendencies in the relationship between the state and rural subjects" (Englund 2006b)

The functions of traditional leaders include dispute settlement as described several decades earlier by Mitchell (1956) in the case of the Yao and van Velsen (1964) for the Tonga, and representing the villagers to outsiders and the authorities (see Tew 1950; Mitchell 1956; Nelson 1975). In the past the village head could also allow immigrant groups or entire villages to settle within his area of authority as obwera by allocating them free land. It is also in principle assumed that village heads delegate the duty of land distribution to heads of lineages or to heads of families (Nelson et al 1975). This understanding of the position of village headmen is challenged by what van Velsen (1964) observed among the Tonga in the areas west of Lake Malawi, where the position of the headman is rather ambiguous, more because of the absence of clear-cut norms. As van Velsen put it, "The headman is not much more than the first among equals in the village and his position is essentially that of a leader with personal rather than constitutional authority" (van Velsen 1964: 292). This observation and my experience in the peri-urban villages of Blantyre imply that the elevated position of village heads is sometimes exaggerated. For political expediency, the traditional leaders often mediate between communities and the state, usually in informal ways not well defined by the government bureaucracy.

Practices and expectations are changing, though in principle, seniority governs relationships, members of families of traditional leaders are accorded relatively higher social status than others, and also a relative receives greater consideration than a stranger (cf. Nelson et al 1975). Also and in general sense the relations between men and women do not always favour men given that male dominance coexists with other patterns of gender relations (Ortner 2006) that seem to favour women. Eventually relationships between members of the village and family are continually being re-negotiated along basic categories of gender and age. Land is the domain within which the negotiation and re-negotiation of relations between rank, seniority and gender is over time becoming more eminent.

Access to and Availability of Land

Though the villagers do not keep formal records of land, they claim to know who owns every piece of land. The land owned by individuals and families is not all in one place, but is in many segments, interspersed with the land of other families. The land is described as customary, even that used by religious institutions and sometimes that for which individuals might have acquired lease from the state. In the Chichewa language, the land is often referred to as *malo a mafumu* (land of the chiefs) or *malo a kumidzi* (country or village land). This designation recognizes the primacy of the rural nature of the land as well as of customs of a particular place and people in defining land ownership and transfer. The ownership of land transcends individuals and generations.

As customary tenure is an embedded institution, embedded in customs of marriage, economy and politics, landownership plays a crucial, but changing role in shaping livelihoods, perceptions of material self-sufficiency and also marriage strategies. Walking around the villages during the rainy season (November to March), which is the main farming period, several gardens are left fallow. This phenomenon is not an indication of a situation of land plenty. Many villagers would admit having little or no land at all for cultivation. Some attribute their particular situation of being land poor to excessive pressure on land, while others attribute the same phenomenon to history of unequal land allocation. Some attribute the state of being land poor to ancestors (especially immediate parents or grandparents) who gave away land to strangers, while others claim that the land they use was received from other families and is not adequate. Such occurrences suggest that for some time the system of land holding had been flexible and usufructory rights often passed beyond the owning kin group relatively easy. Also, it appears that such transfers of land to strangers were a feature many years back when there was adequate land to spare or before land acquired significant exchange value. In the present such transfers are rare, even though some fields are sometimes left fallow for a couple of years, probably because the present owners have no interest in farming. Existence of idle land when some families claim not having enough or any land indicates the existence of imbalances in land distribution. Some land, however, lies idle because the current holders who acquired it by buying are reluctant to let others or even former owners continue using it out of fear that they might

eventually claim ownership. Renting land is also practiced, and the trend is that the borrower pays for such use in cash. As a rule, borrowed garden land is returned when harvested.

Smallholder Farming in Peri-urban Villages

Most villagers make a living from subsistence production of maize and a small range of other crops. Common crops grown in the peri-urban villages include maize (chimanga), pumpkins (maungu), millet (mawere), beans (nyemba), groundnuts (mtedza), sweet potatoes (mbatata) rice (mpunga), sorghum (mapira) and cassava (chinangwa). Maize, which is the main food item in the diet of most Malawians, is eaten green (boiled or roasted), but the bulk of it is left to dry then consumed in the form of maize flour porridge (nsima). Millet and sorghum are minor crops usually used for making beer. The brewing of opaque beer (ntonjani) and spirits (kachasu) for sale is largely the women's activity.

The peri-urban villagers are not involved in the production of any of Malawi's main cash crops, for example, tobacco, tea and coffee. Virtually most smallholder farmers sell portions of food from their own gardens or other people's gardens, as is often the case with the women and some men who buy in bulk green maize and sugarcane and sell at trading centres and all along the main roads leading to the airport or to Lunzu trading centre. Trading in own farm produce is rarely disposal of surplus. In many cases the decision to sale farm produce is driven by the "increasing hunger for cash" (Long 2001:98). Money is needed to meet requirements or purchased goods such as clothes, salt, sugar, soap, or to pay for services such as schooling for children or medical care. Where this is done at the expense of food self-sufficiency, the decision is rationalized by pointing that food is not the only requirement for a dignified living. The green maize or sugarcane often sold during the dry season is produced in the dimba (wetland gardens) on dambos (wetlands or water meadow). The months from May to October are usually dry (table 3.2), and it is during these months that winter cropping takes place. Notably, the rights in dimba gardens are the same as rights in other gardens. van Velsen (1964) commented on this phenomenon noting that river banks do not form a separate category, they are merely part of cultivated or uncultivated land in general.

The cycle of cultivation corresponds to Malawi's tropical climate, which comprises of three main seasons: cool-dry (May to August), hot-dry (September to November) and hot-wet (November/December to April) (Msilimba 2008; Sharp and McDowall 1993). Temperatures range from near freezing at the higher altitudes in the cold months (May to August) to 38 degrees or more at the lower altitudes in the hot months. As Msilimba (2008) put it, only one-third of Malawi has a mean annual rainfall in excess of 1000 mm; and five per cent of Malawi receives less than 750mm of rain. Variations in relief and topography exert a considerable influence on temperatures and rainfall. The high plateau areas receive up to 2000mm per year; 900 to 1300mm of rainfall is recorded annually in the medium plateau areas, while the northern and southern lakeshore areas, the Shire Valley, and the middle (Kasungu and Mzimba) plains are drier and receive less than 900mm of rain. Rainfall data for the study villages from the Chileka weather station (1999 to 2009) shows that most of the rains fall between October and March, though December through February are often the wettest months (Table 3.2).

Table 3.2 Chileka: Monthly Rainfall Totals (mm) for the period 1999 to 2010

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
1999	333.2	234.1	109.1	86.1	0.0	0.0	8.1	0.0	0.0	0.0	98.5	78.4
2000	268.6	205.7	90.3	16.4	0.1	0.0	0.7	0.0	0.0	18.7	200.2	227.0
2001	41.5	358.8	214.8	19.3	25.7	0.0	0.0	1.1	3.1	12.2	78.3	205.0
2002	219.0	103.5	134.0	100.2	0.0	0.5	0.0	39.2	8.2	37.1	19.2	110.9
2003	183.8	149.0	214.5	1.2	30.7	0.7	0.7	0.0	0.0	4.2	22.4	46.0
2004	299.8	46.5	106.8	73.0	0.0	7.0	0.0	7.5	0.0	23.6	105.4	180.1
2005	173.0	12.4	5.4	0.9	13.0	0.0	0.0	0.0	40.6	0.0	162.5	145.0
2006	263.0	257.7	192.2	20.6	0.0	0.4	0.0	0.0	1.9	17.0	129.2	173.1
2007	307.2	188.1	111.5	39.8	0.2	5.7	1.2	0.0	2.7	15.2	71.7	172.5
2008	393.5	110.5	139.9	3.8	0.0	0.8	6.1	4.4	0.0	0.9	74	219
2009	277	85.3	167	1.7	1.6	0.0	0.2	2.8	3.8	11.7	107.0	204.0

Source: Department of Meteorological Services and Climatic Change

The nature of farming has not changed much over the years. The principal and the only agricultural implement known is the hoe (cf. Englund, 1999; Clutton-Brock 1959: 19-20; Davison 1995; Johnston 1897). The plough, as Harry Johnson and others after him have rightly observed, is quite unknown. Villagers assert that all agricultural work, from land preparation through sowing, weeding, fertilizer application to harvesting, can be performed equally well by women or men (cf. Englund 1999 for Dedza in central Malawi). Men and women work side by side in their gardens, though one would also hear the gossip about the irresponsible or lazy (*mlesi*) and drunkard (*chiledzelere*) husband failing to weed or buy fertilizer for his family's maize field.

In many cases, as soon as the first rains have fallen and the ground is moist enough, crops are sown. Erratic rainfall, coupled with declining soil

fertility contributes to low yields in some years. Food insecurity continues to be one of the major problems at the household, though the food situation at the national level is better given good harvests reported in the last few years. The material conditions under which many of the villagers in peri-urban live are characterized by poverty (*umphawi*), of which low food stocks or hunger (*njala*) is just one of the indicators. Low food stocks are often associated with the rise in food prices at times when cash income earning opportunities are few or non-existent in some cases. Many people in peri-urban villages, including the village headmen, have few assets or material possessions to fall on. The consequences are sometimes manifested by low class attendance and high dropout rates in schools (*kusiya sukulu*), also pejoratively known as *kuthawa sukulu* (running away from school), which contributes to relatively higher illiteracy rates and little appreciation of the value of education in some cases (Blantyre District Assembly 2007). Those with *dimba* gardens are however better off because they can plant maize and other crops under irrigated conditions. Yet, not all *dimba* areas are cultivated, probably reflecting what Johnston noted over a century ago that “Many other crops can in this way be raised during the dry season and but for inherent laziness the negro of British Central Africa need never be in want of perpetual supplies of food” (Johnston 1897: 426). Although the peri-urban villagers tend to limit their needs to what they can normally buy with the money earned after selling produce and sometimes from other sources, it is not correct to generalize as Virmani (1992:5) once suggested that the people of Malawi have small needs and aspirations and that they are happy with what they grow in their small holdings.

Every house or hut has a patch of cultivated land around it. Such land is often perceived as space for future houses once a new family is consummated. It may be used for brick making where the soils are good enough. Idle lands are few and I have heard several people in the peri-urban Blantyre suggesting, though with regret, that if they had access to the *dimba* gardens that sometimes lie idle they would engage in more intensive production. This situation inevitably suggests that poverty and perceptions of it could be structural problems linked to access to land, among other limitations to production. The extent to which the trend could also be related to other factors, for example, inadequate storage and conservation methods, is less evident.



Figure 3.6 Healthy Crop of Maize



Figure 3.7 Maize wilting due to dry spell

Livestock farming constitutes a very small part of the people's life. Walking around the villages, one hardly sees cattle but goats. This does not mean that there are no families that own cattle, but that the numbers of cattle are quite small. Those who have cattle are considered rich. As some of the people in the villages remarked, the real challenge to cattle keeping is theft, a problem exacerbated since the 1990s by the breakdown in security at the dawn of the multiparty democracy. There are also fewer families that are involved in pig farming. Sometimes thieves use concoction of locally brewed spirits (kachasu) and maize husks to tranquilize the pigs then carry them away. Other types of livestock kept in the villages include stocks of local breeds of chicken, goats and domesticated guinea fowls. The low uptake of livestock farming limits income earning options, especially when money is needed urgently, for example, in order to meet financial needs like buying fertilizer or funeral expenses.

The rise in the price of fertilizers a few years back, partly as a result of the liberalization of the economy, is often mentioned as one of the most serious challenges to smallholder cultivation. Following the government intervention through the fertilizer subsidy program, the question is how effective it is. The greatest challenge has been lack of transparency and accountability, which

means that fertilizer coupons rarely reach the intended beneficiaries. Many villagers in the peri-urban villages of Blantyre complain at how difficult it has become to access the coupons and also subsidized fertilizer at the selling points. Kadzandira (2007) observed that the problems of access to coupons for subsidized fertilizer have been heightened by corruption among traditional leaders. In effect, the programme benefited more people during the first year (2005/2006 growing season) because the chiefs and others involved in the distribution of the coupons had not yet discovered that each coupon is an equivalent of some cash. Since the discovery in the 2006/07 season many coupons are often misappropriated (Kadzandira 2007).



Figure 3.8 Queuing for subsidized fertilizer at a selling point in Limbe

Once while assisting one family to sow maize I engaged the couple on the subject of subsidized fertilizer. The couple claimed that they received one

coupon instead of two, a fact they attributed to their close kinship ties to the village headman. They challenged the logic of targeting the old people who are already impaired by age, though they also observed that in many of the villages 'real' villagers are by-passed sometimes in favour of strangers. Some married young men with two or more children are by-passed because the village headmen think that they can afford fertilizer on commercial terms. Such village headmen are sometimes beaten up by their own people and relatives.

Non-agricultural Economic Activities

Besides small scale farming, many peri-urban villagers are engaged in diverse economic activities, including hiring out labour (cf. Hirschmann and Vaughan 1983; Tellegen 1997; Orr and Mwale 2001 for other districts of Malawi). Off-farm activities are largely confined to seasonal labour, local food vending and marketing of farm produce. Writing on perspectives on African studies and livelihoods, de Haan (2010) writes that the multiplicity of economic activities reflects the creativity of actors and their ability to combine diverging and often widely dispersed resources into a livelihood.



Figure 3.9 Sugarcane sellers



Figure 3.10 Roadside bicycle repair spot

Among the most common non-agricultural activities are small scale vending in the marketplaces and along the roads. Vending as an occupation is quite diverse. It may entail a small girl or boy peddling flitters or sugarcane at a local trading centre or an elderly woman selling sweet potatoes, tomatoes, maize flour, groundnuts and rape. The boom in vending of this form is linked to the rise in per-urban population and land transactions. Vending entails different payment practices, including payment in cash or on credit. Trading of this type is also common in the cities where traders move from house to house and sometimes from one office to another with items such as raw and prepared food, livestock (chickens, pigeons, guinea fowls, ducks and goats), and second hand (used) clothes.

Other forms include barber shops, tea rooms, small grocery stores (offering candles, salt, sugar, soap, matches, school and stationery supplies etc), and road side chips (French fries) and pork grill stands (chiwaya). Roadside vending is important for women and the merchandise traded include second hand clothes, flitters, and also maize husks (madeya) used in distilling spirit (kachasu) and also as feed for chickens and pigs. Maize husks provide a good return, with a bag selling at K600.00 while a basin goes at K40.00. The flexibility in packaging is an incentive in the sense that the minimum quantity that could be purchased is not a barrier to people seeking to buy the husks in smaller quantities. Road side vending extends to workshops where various items are fabricated. These workshops include metal products fabricators, carpentry workshops and bicycle repair shops. The viability of some of the businesses is often linked to the spread of the city and the proliferation of land selling. For instance, carpentry shop owners and owners of steel fabrication shops describe the boom in land transactions as a blessing. Further, there is substantial trading in charcoal, a phenomenon associated with deforestation in the areas where it is produced (Blantyre District Assembly 2007).

Other important non-agricultural activities include the triad of sand mining, brick making and artisan quarrying. The mining of sand takes place mostly in the rainy season when the streams are flooded with water. The filling up of streams with water is accompanied by deposition of loads of sand washed from the deforested catchment areas. Both men and women are engaged in sand mining. In some situations the husband and the wife may work together. Sand mining involves dredging the river bed to take out the sand. Where the work is done by married couples the role played by women

is often to transfer the sand from the river bank to the place where it is loaded into lorries. The boom in the construction industry means that the demand for sand is usually high. On the other hand brick making is an old industry facing ups and downs due to the boom in the construction of houses and the depletion of wood used in the curing of bricks. Those who are able to meet the wood requirements are in better position to exploit the opportunities from two angles. If they have land, they could sell the land and then proceed to provide the bricks, the practice that is often described as killing two birds with one stone. For instance, Mbewe has been making bricks for many years from the age of 10 years. In February 2010 he had 40,000 bricks from the previous year. The prevailing prices at the time ranged from K2.40 to K2.50 per brick. His wish was to sell at the price of K2.75 per brick. Mbewe spent a total of K38, 000.00, being costs related to labour (K8, 000.00 for hiring extra hands to make 20,000 bricks), renting the land (K5000.00) and fire wood (K25, 000.00). At the preferred price of K2.75 per brick his income was going to be K110, 000.00. Mbewe observed that the 2010 brick making season would be difficult due to scarcity of firewood.



Figure 3.11 Charcoal traders



Figure 3.12 Brick making field

While the price for wood was K25, 000.00 per trip in 2009, it was anticipated that it would go up to K30, 000.00 or higher in 2010. Depletion of wood means in some cases that some people go into brick making even when they do not have an idea about how to source the required fuel wood. As one of the village headmen remarked: “In the past all this area was wild. Trees and grasses were all over but today there is none. Then, we could pick a variety of wild fruits and with that there were times when one would not need to eat nsima (thick maize mill porridge). Today people have to cover some distance to the Michiru Mountain to collect fire wood and grass.” To do so one requires obtaining a permit from the government office even if the purpose of the wood is to use during the funeral vigil.

Villagers often speak about Michiru mountain as one of the dangerous places where poisonous snakes, hyenas and spirits (mbalale or mizimu) dwell. The spirits can be benevolent or malevolent. Some people claim finding nsima with relish or ripe bananas and water provided by the spirits. The

belief in spirits is strong as the village headman Chikowa also observed: “if the spirits instruct you to do something, do it. Sometimes the spirits could provide clues to medicines for strange illness. Such medicines tend to be potent.” Within villages spirits (ancestral spirits) are believed to dwell in the graveyard (manda), also known as the bush (tchire), partly because the graveyard is often well wooded when the rest of the village area might have been completely cleared of any natural tree growth. Traditionally ancestral spirits have been honoured by holding occasional feasts at their request made usually through dreams or calamities, but today such feasts often accompany and also mark the unveiling ceremony of tombstones. Rising and prohibitive costs of items including food and building items imply that organizing and holding such feasts requires large sums of money.

Living on piece work (ganyu) and as Security Guards

Piecework (ganyu) is by far one of the most important sources of income, mostly among the young men. It refers to any task that a person may do for a wage on short term basis. Ganyu has been a subject of interest among anthropologists and economists. The notable contribution on ganyu in Malawi is by Harri Englund deriving from his work in the central rural district of Dedza on the Malawi – Mozambique border. Englund (1999) suggests that ganyu is the most common way of recruiting agricultural labour from outside the household. The use of cash in ganyu does not mean that the labour arrangements are devoid of social obligations and privileges. Apparently the practice of labour pulling or sharing is rare in Dedza as well as other parts of Malawi. Most often, ganyu is offered to kin, especially those from within one’s own matrilineage, probably because of the matrilineal nature of the groups, which also defines access to productive assets in land. Many families in Malawi living along the border with Mozambique and Zambia also seek ganyu in these countries at peak agricultural times such as at planting and weeding time or in land preparation for wetland crops. Whiteside (1998) observed similar trends on the Malawi-Mozambique border in the Mulanje area. Here ganyu provides an important source of food to poor Malawians, although such work also conflicts with work on their own farms. That ganyu is associated with vulnerability is also contained in the 2007 vulnerability assessment report of the USAID for Malawi where it is noted that:

“Most of the poor households in the country depend on providing agricultural casual labour (ganyu) to obtain incomes to buy food when their own produced food stocks run out. In times of food shortage, the number of people looking for ganyu increases and the wage rate falls significantly as ganyu seekers are willing to accept almost any wage rate just to make it through. Conversely, in a good year, the number of ganyu seekers declines, ... reflecting the current scarcity of available labour, which in some areas is difficult to find.”

However, the significance of ganyu undertaken across national borders is that it suggests that local livelihoods are to a large extent unbounded by state boundaries. In addition it emphasizes the significance of cross border linkages that are too often underplayed for political reason that they remain invisible to the state though they actually draw on similarities in cross-border ethnic compositions and familial and non-familial ties transcending too many of the territorial boundaries of modern African states.



Figure 3.13 Offloading bricks from a lorry



Figure 3. 14 Construction workers

The practice of ganyu has often been misrepresented by economist. For instance, Kulemeka (2000) pointed that the notion that ganyu is the principal coping strategy in Malawi embodies a view of the ‘typical’ Malawian household as a rural smallholder family. Urban and peri-urban households, even tenants on estates, and others are not treated as distinct categories with their own set of vulnerabilities and invoking distinctive responses. Kulemeka (2000) adds that differences in coping within households, specifically between the coping behaviours of men and women are often ignored. In practice locality and age mediates the practices of ganyu. Young children, boys to a large extent, would do ganyu on their parent’s gardens.

Many people, especially young men, come from other districts for the purpose of doing ganyu in peri-urban villages in the post-harvest period. In some cases men who relocated some time back to other districts, but have relatives who stayed behind, come back during land preparation to do ganyu involving tilling of gardens. Often they rent a house from where they operate. When rains start falling they return to their home to take care of

their own gardens. Ganyu also takes place in the brick fields. Here the main work involves making bricks, though others are involved in the loading of bricks onto lorries (figure 3.13). Unlike in the past when the making of bricks involved team work; in the present the making of bricks is often carried out by one person working alone. Those working on ganyu arrangements make bricks at the rate of between K400.00 and K600.00 per 1000 bricks. Also, at harvest time, some people do ganyu involving harvesting and shelling of the maize. Payment for harvesting is subject to the size of the field, while for shelling maize the fee is often fixed per bag of shelled maize or per pail. In some cases the fee per pail of shelled maize is K30.00, where three pails of shelled maize could fill a 50Kg bag. That way shelling about 50Kg of maize often costs K90.00 where the fee is determined per pail of shelled maize or K100.00 where the fee is or shelled bag of maize. Shelling maize is often carried out by young children and women. The women and children engaged in shelling maize collect the maize stalks for use as fuel in cooking and heating. The stalks are an important source of energy at harvest time given the challenges of deforestation and lack of affordable alternative sources of energy.

Besides ganyu, often done during the day, some men work as security guards (*ulonda*) during night time and at construction sites. Chitsanzo, a young man aged 24 has been working for two years as a security guard at one of the unfinished houses in Mwera village at a meagre salary of K4, 000.00 per month. Other security guards, Mbalame for instance, earn as less as K3, 500.00. A security guard earning K7, 000.00 per month is therefore considered to be well paid. The 2007 Employment Regulation Act recommends a daily wage for the labouring class of K95.45, plus a housing allowance of not less than K10.00 per day. Any remuneration that is not less than K3174.40 per month is lawful given that it is above the recommended wage limits. Low salary levels are however catalyst for theft by security guards. One uncompleted house had all the steel windows stolen by thieves, though three of the windows were, as it was alleged, 'taken' by the security guard after his boss failed to pay him for several months. Yet, in another situation the security guard disappeared one afternoon taking with him the bicycle belonging to the bricklayer. Security guards who are married would often negotiate with the employer or the foreman that their wives should be engaged on ganyu basis to draw water for the construction work along with other women.

Living in the Shadow of TEBA

TEBA is an acronym for The Employment Bureau of Africa, the official recruiting organ of the South African Chamber of Mines. In Malawi, TEBA also means labour migration (*kupita ku teba*), but in the context of this work it relates to the time when the South African Chamber of Mines used to recruit from Malawi, and Chileka, Ngumbe to be specific, was the staging depot for the recruits. Ngumbe is located between three and four kilometres from the Chileka international airport. Then the villages around Chileka were in close touch with TEBA recruits and return migrants in transit, then also known for having big sums of money, which they often spent lavishly on beer and sex. Hence, in every day intercourse TEBA refers to the time (*nthawi ya TEBA ija* – during TEBA time) when there was a lot of money in circulation. Also, many of the early residential houses in the villages with a corrugated iron sheet roof and the business houses at the trading centres (most of which are falling apart) were built during the TEBA time. In the present owing to accelerated circulation of money due to land transactions, many young people in the villages also speak of TEBA in relation to land money, and in many cases also connect the discourse on land to HIV/AIDS, which continue to claim many lives since the 1990s. Some families are headed by children, for whom selling land is a way of mitigating the impact of *kutha kwa makolo* (death of the elders or parents), often linked to the same HIV/AIDS pandemic, more especially the TEBA time. Both the orphaned children and the aged claim lack of care and support following the death of the economically active family members. In some case aging grandparents are the primary guardians (Englund 2008).

TEBA closed almost two decades ago. One of the factors leading to the closure was that the government of Malawi rejected on legal and moral grounds requests to have all migrant labourers recruited for the mines in South Africa to undergo HIV/AIDS tests (Chirwa 1997). On the national scale, the rapid rise in HIV prevalence and the incidence of AIDS associated illnesses since the 1980s continue to affect labour productivity, and health care costs (The World Bank 2006). In some peri-urban villages of Blantyre, there is a glaring gap in the demographic structure. Many of the young men and women aged between 15 and 35 have no living parent and very few have a living grandparent. Although the HIV/AIDS prevalence rate at the national level has declined to around 12 per cent since 2004, fear and uncertainty

contribute to stigmatization, isolation from friends and family, and limited economic opportunities for some of those who are known to be infected.

Conclusion

The socio-economic situation of thousands of peri-urban families is precarious. Many of the peri-urban villagers depend on resource poor small scale farming, while also engaging in some small scale vending and various waged labour practices. Through small scale farming and non-farming income generating activities peri-urban villagers interact with other social and economic actors and the worlds beyond their villages. It is remarkable that peri-urban villages have provided labour and interacted with return labour migrants to the mines and farms in South Africa and Zimbabwe for quite a long period of time. Some peri-urban villagers have relatives or close kin living or working in Blantyre city or other urban centres and districts of Malawi. They live under traditional leaders and ideas of kinship as the main organizing factor in social life persists, especially in relation to land related matters. Collectively, these aspects are co-present, not as causal features, but as themes and sometimes as metaphors that inform, facilitate or sometimes constrain interactions among various actors as more peri-urban villagers begin to value land less as the basis for farming and more as a tradable item. The next chapter turns to the process of commodification of peri-urban customary land.

Commodification and objectification of Peri-urban Land

A major characteristic of peri-urban land transaction is that land is objectified and the relations to it monetized. Consequently in everyday interactions the land is perceived and often portrayed as embodying both use value and exchange value. It is not given out, allocated and reallocated for free except as inheritance. Even then any decision regarding inheritance of customary land is restricted to some narrowly defined and understanding of family unit. Other than that customary land is normally rented out. It is generally described as a scarce resource and so its scarcity value is increasing recognized and often reflected in other spheres of social interaction. As demand for peri-urban land is rising prices are also rising substantially, making it attractive for more villagers to consider selling even more land. Objectification occurs for different mitigating reasons, but the major considerations are the need for cash income by the sellers and land by the buyers.

I will start this chapter by providing an overview of the prevalence of selling land, and then turn to the process of selling and reselling land. Pertinent questions are how and why attitudes and practices change over time, and also how the sellers and buyers negotiate and represent certain claims in the course of setting the price, which entails attributing exchangeability or interchangeability between land and money. Advertisement for land in the print media and by other means is part of the objectification and monetization of peri-urban land relations. A discussion on advertisements for land and the socioeconomic relations that are implicated is deferred to a later chapter on intermediaries. Yet, by considering the place of intermediaries, this chapter suggests that the selling, reselling and buying of customary land do not occur in an institutional vacuum. Rather, the process is culturally, socially and economically influenced such that the emerging practices are to a large extent mitigated by the intentionality of the sellers and buyers, as well as their capacity to negotiate with the intermediaries and with existing socio-cultural institutions in strategic and forward looking manner.

The Prevalence of Selling Land

At the start of fieldwork Chitsenga drew my attention to changing perceptions among the peri-urban villagers over the value of land noting that: “Ever since land became a commodity it is not possible to acquire one for free. Even in the villages far away from the city it is not possible to acquire land for free. Everybody knows that land is wealth. Is it possible to find free land?” As I made headway with my fieldwork I found this remark increasingly informative and significantly enriching given that the practices involved in the selling and buying of peri-urban customary land are spreading spatially and stimulating some form of a scramble for peri-urban land. Prices of land are also rising over an ever expanding peri-urban field.

In many cases the accounts provided on the control of and use of land by local villagers emphasize that the selling of land is accelerating and soon there will be very little to no land left in most peri-urban villages, which the local villagers can use or live on. In some villages, especially those within the city boundary, most of the land has already been sold to strangers. In one situation one participant drew my attention to the fact that all the lands I could see were sold already in the following words: “The trees over there belong to another boss who has built a big house on a small hill that lies on that side. Beyond that is land that has been sold recently to another man who owns the truck that passes here every day. And the land across the stream was bought by the proprietor of that famous private school, who has also bought the hill over there.” While in the company of one local estate agent we were also approached by two young men who offered to lead us to three more parcels of land that were being offered for sale. Later on Fanuel observed that in some villages almost all the land has been sold to people from outside the village. In Chikowa, Mzara and several other villages many peri-urban land transactions taking place now involve reselling of land.

In the first place land is sold by the customary owners or the users if I am to be legally correct, from those with rank (the village headmen) and those without, who might be selling such customary land for the first time, or other people who might have bought the land and are now reselling it. Most of the land sellers happen to be young men mostly between the ages of 20 and 35 years. On their part village headmen and headwomen grant consent or endorse the transactions. The village head is then a third party whose role is sometimes portrayed dismissively as that of a witness (*mboni*). Yet, after the

village head has granted consent it is sometimes portrayed as if it is the village headman or headwoman who sold the land. Sometimes the language used emphasizes the principle of reciprocity and the transaction is then portrayed as involving redistribution or allocation of land. The everyday language would suggest that the buyer ‘found land’ (*kupeza malo*) although in essence the transaction involved a villager selling him or her land. As one government official remarked in interview: “We normally claim that traditional leaders are selling land when the actual sellers are their subjects, the autochthons (*mbadwa*).” The assumption is that if village headmen could refuse granting consent or demand of the would be seller to surrender the land so that it could be reallocated to those without any land or those with less land within that village, the selling of customary land could not be happening. This assumption, which does not hold in everyday encounters in the peri-urban villages derives from norms steeped in passing or ancient custom. It conforms to the passing assumption that traditional leaders retain and exercise powers over the distribution and reallocation of customary land.

The view that chiefs are selling land is gaining ground. It is often taken for granted, as another government official also asked me later on during interview, “Do you want to tell me that you don’t know that traditional leaders are selling land?” Later on, during my visit to the home of one of the village headmen, the village headman had left for the *Khoti* (the court, which also refers to the headquarters of the traditional leader of the rank of traditional authority or chief). Then one of the nephews to that village headman suggested that all the village headmen in peri-urban Blantyre are selling land, noting: “Do you think that in this area you will find a village headman who does not sell land? All the village headmen here are selling land, even the chief himself. It all starts with the chief. Think about it! If a chief is selling land, can a village headman stop the practice of selling land?”

Peri-urban villagers sell land because that is what they consider as beneficial to them. The traditional leaders’ mode of operation is neither out of ignorance of the law nor resistance to the law itself, but rather towards avoiding its application for practical considerations that include village headmen’s personal benefit through the transactions.⁶⁷ To a certain degree this aspect makes such land transactions ambiguous and rather ‘informal’,

⁶⁷ A similar point is made by Scheffler in the context of Choiseul islanders where he cites his informants saying: “Our customs are not firm. We look for that which will help us to live well, and the rest is just talk” (Scheffler 1965:112 cited in Holy and Stuchlik 1983: 83).

where informality is not about illegality but more about the ambiguous intentionality of those involved (cf. Laguerre 1994). Hence the notion of informality is useful precisely because of its ambiguity. It is used in two quite different senses that peri-urban land transactions bring into relation. It distinguishes ordinary practices from 'formal' practices. Being formal means following procedures set by the state and in that sense the object of sale could be registered land. In the second sense, being informal draws attention to the primacy of the intentionality of the actors vis-à-vis state regulation. Further, informality also relates to how government officials deal with matters relating to the selling of customary land, especially in relation to those seeking to lease customary land. Those seeking to lease customary land are required to complete application forms. If an applicant indicates on the form that he or she bought the land from a village headman or a chief, for example, they would normally be advised to write that the village headman or chief allocated them the land for free. To some degree such a piece of advice represents veiled acknowledgement of the prevalence of the selling of customary land. The paradox is that the land buyers are in many cases Malawians who claim experiencing problems accessing land provided through 'formal' channels instituted by the state.



Figure 4.1 Notice at the District Commissioner's office, Blantyre (Malawi)

The objectification of Customary Land

The commodification of peri-urban land implies that the land acquires exchange value, relations to it are perceived and subjected to monetary calculations, and so it is subsequently open to exchange for monetary gains (Grange et al 2006). Over time the act of selling or buying land is increasingly becoming the major way of transferring or acquiring peri-urban land. To some degree the processes signify the impact of growing peri-urbanization and the gradual and too often unintended and spontaneous integration of the peri-urban land into the objectified urban space. This is true given that the selling and buying of customary land links the sellers and the buyers and both become symbolically attached to or disassociated with it in a new way. This idea of being attached or disassociated with the land is the essence of

objectification.⁶⁸ Succeeding sections will pay attention to changing attitudes towards the selling of land, scarcity of land and the dilemma to retain or dispose customary land, and the motives that inform decisions to sell and resell this objectified peri-urban land.

Changing attitudes towards the selling of land

Many peri-urban villagers subscribe to the view that in the past land could be given free of charge by the village headmen or other families to new comers or strangers (*obwera*) or those who beg for land (*opempha malo*). Then, what mattered most were factors such as affiliation to similar clan names, ethnic group, pledge of allegiance, which were followed by some offer of something in return (gift), for example a chicken (*nkebuku*), piece of cloth (*chilundu*) or oftentimes a pot of beer (*chipanda cha mowa*) after one growing season.⁶⁹ Although money appears not to have been part of such land transactions in the past, the exchange of items of value presupposes awareness of existence of some exchangeable value attached to land. This mode of transacting land responds to Marcel Mauss' (1925) treatise on reciprocity that 'gifts' entail the right to receive and the obligation to reciprocate or as Jomo Kenyatta put it the principle of "give and take" (Kenyatta 1971:19). As Cynthia Werner also writes, in many cases, gift exchange helps to create webs of relationships based on mutual obligations, which also function as safety nets for people with few economic resources, insufficient state welfare benefits or limited access to goods and services (Werner 2002:185).

The practice of paying for customary land in monetary terms may be new in some peri-urban villages of Malawi, but it has been an established practice in other societies for many years. Likewise although the concept of land sales may have been unknown in some cases in the past of Malawi, it is possible that there was no rule forbidding payment for improvements as observations in several other instances seem to show. For instance Adams and Turner (2005) writing on land policy in eastern and southern Africa have shown that

⁶⁸ The idea of objectification is rooted in the writings of Hegel. As Phillip Vannini suggests, for Hegel objectification refers to "the process whereby human beings undertake a double process of separation first and reappropriation later of the material world" (Vannini 2009b:22).

⁶⁹ Based on interviews with the village headmen. This position is also evident in the literature on land ownership cited in the first chapter

in the past free transfer of unimproved land was taken for granted, that is, it was received free and was given free, but this did not apply to improved land. Angela Cheater suggests for Zimbabwe that in the late 1940s and 1950s compensation was often paid in cash to those leaving their land by those taking it over (see Holleman 1969:334 as cited in Cheater 1990:191). As Órnulf Gulbrandsen also write about the Bangwaketse of Botswana, the view that land is not a market commodity does not relate primarily to any law, rather to the fact that it is meaningless to associate land with market transactions largely because there is no demand for land which has been cultivated (Gulbrandsen 1996:319). Further, purchase of land is one of the themes in Jomo Kenyatta's ethnography on Gikuyu land tenure. Some Gikuyu acquired private property in land by buying from the Ndorobo, an arrangement that by-passed Gikuyu tenure system (cf. Kenyatta 1971:31-2). The notion of selling land implies existence of individualized rights, even within tenure systems perceived inherently communal. As Peters (2007) put it, since the 1930s anthropologists interested in African land tenure issues have repeatedly shown that individual rights are not automatically excluded, for instance, as reported for Zambia in the 1950s. Here Max Gluckman stressed the existence of individual rights in the following terms: "In so-called communal ownership ... every member of a certain social group can claim the right to be given a garden ... and to make certain use of public lands or water... The working of the land and the appropriation of its products in this system of land tenure are highly individualistic" (Gluckman 1965: 101 cited in Peters 2007). Selling and buying such land reaffirms or is the extension of the individuality of the possessions.

Of late, the procedures for land transfers referred to earlier on are no longer considered sufficient. Land has acquired new economic value, and there is an increase in the number of people willing to sell or seeking to buy it. Some sellers regard the selling of land as the only form of business that is at the present moment performing well. Besides rising demand many villagers also associate the selling of land to the rise in levels of poverty, a challenge that also affects the village headmen. To such village headmen the selling of land is indeed some form of business. As one village headman observed, "This is because the village headmen themselves are poor just like their subjects. If it were not, the village headmen would have been able to limit the practice of selling land." The view that village headmen could contain the practice of selling land is unrealistic given the growing need for

cash income among the land sellers. The situation in the peri-urban villages of Blantyre is similar to that observed by Vele (1978) in Papua New Guinea where some people acquired land for almost free in the late 1960s but by the end of the 1970s most transactions involved cash payments because the land holders' wish to earn some money had become the driving force behind the transactions. Yet, as much as the commodification of land could be situated in the changing requirements for cash income, some peri-urban villagers claim that it is not solely the desire for money that makes them sell land, rather, they also perceive the transactions as one way of extending generosity and hospitality, which obliges those with extra land to offer it to those in need and who can put it to efficient use (cf. Kaitilla 1999 for a similar point). The availability of land to spare, the actual demand for it and the need for cash income complement each other in quite complicated ways that it is hard to distinguish the actual compelling reason from the statements that land sellers make.

No precise timeframe or period is given as to when the practice of selling customary land could have started. Some villagers often refer to the past or old times when land could be given free to strangers, but also to the time a few decades ago when they could also disparaged people in other villages closer to or within the city, who were already involved in the practice of selling land. As village headman Mbanga put it: "At first we used to laugh at the people in Mzara village. We were puzzled that they were renting out land, they were selling land and also that some were relocating to other places after selling all their land. We used to describe the selling of land as the worst form of poverty. We were seeing them as senseless and useless people. But the trend has spread up to here." This description suggests that change in attitudes towards the selling of land to outsiders is also one of the factors that account for the phenomenal rise in the practice of selling land. Yet, although most of the sellers would admit selling more than one parcel of land and having done so over a period extending over several years back, for some as long as ten years or more, they also insist on labelling the practice of selling land as a recent phenomenon. As Salima, who introduced himself as both a nephew to one of the group village headmen and also a local estate agent put it: "The practice of selling land is new. I might say that it started some three years or so ago. For many years it was just a rumour that it is happening in other places more close to the city, in such places as Chirimba Township, then Chikowa and Mzara. Now it is taking place here."

While claims that the selling of land might have started three years ago are imprecise, such a statement confirms that selling of land is not one of the established customary ways. The talk or narration of the fading past is in part a process of reconstructing and reliving the past. Village headmen and headwomen often see it as performance of their customary role, involving even the reinvention of appropriate customary practices of transferring land. It is also a means of reconciling themselves to change, about which they have less control. This is evident when village headmen and sellers repeatedly talk with nostalgia about the past when land could be obtained by 'begging' and 'gifting', and often describe the ease with which land is sold in the present as a big change.⁷⁰ As village headman Mbanga also put it: "In the past it was not so easy for a person to express his wish to buy land directly. Then, young men wishing to sell land would also find it difficult to introduce the subject to their parents and relations. It could take weeks since it was then a difficult issue. If it were not all the land here would have been sold some time back." That the selling of land was then a difficult issue and now a big change relates to the dominant discourse about land as an aspect of the social relations of production (cf. Goheen 1992; Kenyatta 1971 on Gikuyu land tenure). The contrast is that among the young men in peri-urban Blantyre, smallholder farming as a mode of land based livelihoods is often described as the old practice befitting the old people. What matters most is having cash, as the young men and women are eventually reconciling themselves to the state of being or near landlessness, of not being ordinary villagers dependent on smallholder farming for almost all their needs, and sometimes of exclusion in a government subsidized fertilizer programme. These aspects have implications on how the young peri-urban villagers construct their agency, given also that most of the land sellers described themselves as unemployed as most of them do not value subsistence farming as a form of occupation. Writing on the meaning of agency, Emirbayer and Mische (1998: 968-9) suggest that "as actors respond to changing environments they must continually reconstruct their view of the past in an attempt to understand the causal conditioning of the emergent present, while using this understanding to control and shape their responses in the rising future." This particular

⁷⁰ A similar point is raised by Edward Fischer and Carol Hendrickson among the Maya where some participants suggest that "selling our land is difficult, it hurts us to part with what our mothers and fathers gave us" (Fischer and Hendrickson 2003:133).

understanding of agency is evident in situations characterized by scarcity of land.

Scarcity of land and the urgency to sell it

The process of selling land relates to rising pressure on land within the peri-urban villages. In some situations the shortage of land makes it increasingly difficult for peri-urban families to share land as they would in the past through subdivision. The option left is to sell the parcels of land and then share the money earned from it. Behind this decision are three forces: a) the spread or expansion of the city into the peri-urban (*kulowa kwa tauni*), b) love of money (*kukonda ndalama*), and c) the breakdown of the custom regarding land allocation. Over time the population and economic activities in Blantyre city are expanding out into the rural areas. Then, there is the ever growing demand for cash by the customary land holders. The third aspect is reinforced by the first two aspects. However, it is also accelerated by the impatience and lack of tolerance among the young family members within the extended family set up. Commenting about the past, it is often noted that parents (grandmother, mother, aunts and uncles) could share land by subdividing whatever land was available. For instance, a mother with three daughters would split her land holding into four parcels. She would retain one while passing on the other parcels to each one of her daughters who would cultivate and live on their own portions of the land. Today it is sometimes difficult to convince siblings agree to share land and the elders would often ask the parties to sell it so that they can then share the money. Often the expectation is that each beneficiary would use her portion of the money to buy land in the villages further away from the city, where prices of land are relatively low, then restart a subsistence farming way of life. There are few people who take this option. In extreme cases the land is sold by one or some of the family members against the will of others.

The irony of selling land is that in the long run it increases pressure on land. Often, selling land does not correlate with having ample land, given also that few families have excess land. Even fewer families can claim that the decision to sell any one parcel of land is entirely based on the premises that they have adequate or excess land that they do not need for production purposes. With some exceptions, individuals related to some village headmen claim to be in the situation of land plenty. This is the case in Mwera, Jekete,

and Mphwere villages, but not in Chikowa village. Chitsenga, for instance, had planned to sell his land hoping that he could be allocated another land by his uncle, the village headman for Jekete village. As he put it:

Many people have approached me to sell them my land. I have often told them that I need it for my own use. It is my inheritance since I received it from my mother. But sometimes I have the feeling that probably I should let it go. After all this is not the only land I have rights to. My uncle has over 15 big gardens, which are being used by other people on rent. One of my brothers (parallel cousin) lives in Lilongwe. He works there as an electrician. He came here with his boss who is looking for land. He and his boss inspected my land and the boss pledged to buy it. When they went back to Lilongwe my brother agreed with the boss that instead of paying me K700, 000.00 in cash, we should exchange it with a 7 ton lorry, which he bought from South Africa a few years ago. After some thought, I refused to accept the lorry as payment for my land. I would rather have money. But now I have changed my position. I will not sell it. Now, what I want is that when I die my children should inherit this land. Will they inherit anything if I sell it now?

Land sellers experience the dilemma of whether to dispose of land or retain it for future cultivation. The dilemma of surrendering land to outsiders relates to the question of reconciling the use value and exchange value of land. It also questions belief systems and custom about the transferability of land. As Alexander and Alexander (1995) suggest based on research among Lehanan in Central Borneo, given a choice some villagers would prefer to retain their land for future cultivation rather than surrender it to outsiders, even in the unlikely circumstance that the compensation is generous. A similar position is made with additional layer of precision for the Luo. As Shipton (1992) observed, there is broad scepticism about selling land although the influence of pro-market ideas acquired through trade, travel, and schooling have led to some shifting in rigid positions that deemed it a betrayal to alienate ancestral land for money.⁷¹ For these reasons,

⁷¹ Among the Luo money gained from selling inherited land for personal gain is called *mekech*, bitter or evil. Such money must be kept out of sacred spheres such as marriage payments, particularly for a marriage to a second or subsequent wife, seen increasingly as a luxury for a man. The belief is that if mixed up without being ritually purified, 'bitter money'

commodification of land reflects increasing contact between the customary land holders and the market economies, though its form might also reflect, as mentioned already from participants' perspectives, the need for cash income, the love of money, and also the inability to defend legitimate rights (cf. Alexander and Alexander 1995 on defending legitimate rights) as land becomes scarce and the pressure on it more intense making it even more complicated to assess land sellers claims on motives compelling them into doing so.

The Motive to Sell Land

Many sellers would claim that commodification of land starts with the motive, and in many cases there are several motives. Some motives are rarely evident until the land has been sold and probably the money earned out of it has been spent. For this reason the decision to sell land is sometimes characterized by divergence of opinion before and after the transaction. Despite having several parcels of land and also what are often described as good reasons upon which to base the decision to sell, there are always constraints with respect to which parcel of land to sell, when to sell, how the money earned thereafter should be shared, and sometimes over the influence of absent or migrant relatives. The wish to retain particular parcels of land is always raised in connection with prevailing uses of land for farming, as a space on which to live (residence) and in some cases as a platform for other income earning activities like brick making. A family that has several parcels of land is likely to sell those considered less fertile and therefore not good for farming purposes. This is often described as selling unproductive or barren land. Other considerations include the ease to sell, which is correlated to proximity to road access, access to amenities such as piped water and electricity. In this sense the selling of land is informed by some strategic considerations but also existence of social infrastructure. I will illustrate the dynamics using the story of Chimwemwe.

Chimwemwe is aged 31 and he lives in Jekete village. He is one of the few young men in polygamous marriage. He is self-employed as a barbershop owner, but he is also involved in subsistence farming. He intercropped maize with groundnuts on a field about 0.3 hectares. Chimwemwe pointed that his

brings sterility and death by the agency of ancestral spirits, divinity, or both – to the seller and his family and lineage (Shipton 1992: 365).

garden is infertile and so it would be better to sell it so that he can use part of the income to buy another field in another village. However, his mother had a different opinion. Her wish was that he should not sell it until he has identified the good garden that he might buy. His mother's concern is that selling the land before securing a replacement would make it impossible to buy another one in case all the money is spent. Meanwhile, Chimwemwe's mother has another garden of about 0.14 hectares, which she also planned to sell. Her wish is to raise money to pay for expenses related to wiring the new house and paying connection fee to the Electricity Supply Corporation of Malawi (ESCOM). Yet, her land is inappropriately located too close to high voltage power lines. For some time Chimwemwe and his mother were undecided on the price and their indecision was also impacted by the fact that they could not sell any of the two parcels of land without seeking the opinion of Manze (Chimwemwe's brother) and Mercy (Chimwemwe's matrilineal parallel cousin and daughter to the deceased sister of his mother). Both Manze and Mercy live in other districts of Malawi. The opinion of Mercy was required for the 0.3 hectares of land because that land belonged to her deceased mother.

Chimwemwe's account, like that of Chitsenga before it, suggests that selling peri-urban customary land is subject to variable interactions among the actors. As Norman Long writes about the actor-oriented approach: "The different patterns of social organisation that emerge result from the interactions, negotiations and social struggles that take place between several kinds of actor, not only those present in given face-to-face encounters but also those who are absent yet nevertheless influence the situation, affecting actions and outcomes" (Long 2001:13). Hence, the decision is sometimes influenced by pressure from some estate agents and potential buyers as reflected in the motives and interactions involved in the reselling of customary land.

Reselling Customary Land

Most of those reselling land are often 'strangers' who bought the land from the *mbadwa* or from other strangers who acquired it by buying. For this reason selling and reselling of customary land relate to specific but also changing social relations. Selling takes effect on ancestral or inherited land (*malo a makolo* or *malo a mizimu*) while reselling is associated with purchased or

privately acquired land (*malo ogula*). Hence selling and reselling land draw attention to the contrast between personally acquired and ancestral property (cf. Colombijn 1992). Reselling land implies that relations and attitudes towards land are becoming more exclusionary. Money realized from selling purchased land is less subject to claims of the extended family members.⁷² Another element is that reselling land is quite common in more urbanized peri-urban villages. That is, the villages located within the administrative boundaries of the city. Coincidentally most of this land is not owned by the local villagers, but people who acquired it by buying from the villagers several years back. Previous owners would rarely play any significant role and so it appears that each change of ownership takes place as an event disconnected from others before it. I will focus on reselling to raise money, speculative reselling, diminishing economic opportunities, and disposal of deceased estates as earlier buyers are eventually dying. In the process I will also attempt to connect and relate the practice of reselling land to broader economic, social and cultural relations, some of which have been provided in the previous chapter but additional detail will follow in the next two chapters.

Speculative Reselling

For most people reselling land happens when they realize that they would not fulfil plans they had at the point of acquiring it, for example, building residential or business premises as a case may be. Sometimes reselling of peri-urban land takes place after developing it partially. It also happens when some owners realize that they bought more land than they require as the following story illustrates.

Milward directed me to Mzara village where Ngozo works for a family that acquired land several years back. A house is under construction and there is also some vacant, a trapezium shaped 0.2 hectares of land. Ngozo has been working for the family that owns the land for close to 10 years, during which the house that is yet to be completed has been under construction. The starting price of this portion of land was K700, 000.00.

⁷² Jomo Kenyatta (1971) writes for the Gikuyu that any man who bought land had full rights to sell it outright without consulting anyone, except the elders who acted as the ceremonial witnesses in land transactions (Kenyatta (1971:31). The way the transactions are managed and the money realized shared or used reflect relations comparable to Sharon Hutchinson's distinction among the Nuer between cattle of girls and cattle of money (Hutchinson 1992:305).

Two factors appear to have influenced the decision to resell it. First, an adjacent parcel of land belonging to another family had been sold. Due to the configuration of the parcels it was agreed that the access road to the other plot should cut through the land owned by Ngozo's employer, thus detaching the parcel being offered for resale. Reselling the land is but a strategy to raise money for the construction of the house.

Similarly, another man bought land in the same village, but decided to resell it when he could not develop it due to lack of money. As Blessings, the urban estate agent who facilitated the transaction put it: The owner realized that his neighbours had built mansions, while he could not. He sold the land at a higher price then used the money to establish a maize mill, which in a way makes the reselling speculative.

Reselling land allows others to take advantage of the changing dynamics in the pricing of land, by amassing land they do not plan to use. Apparently, land tends to increase in value beyond the value of the profits one can gain by using it. For example, land values might rise relative to the rise in demand due to growing population density, the addition of public infrastructure, including transportation infrastructure, or the emergence of new uses besides agriculture (Deininger 2004). This is apparently what is happening in the peri-urban villages of Blantyre, though the situation reflects cumulative developments other than planned development by the state.

In one of the transactions a man originally from within Mzara village, who at the time of my fieldwork was living in Blantyre city, bought a piece of land from his poorer neighbours. He claimed that initially he had plans to build a two story residential house, but for reasons related to poor performance of his business as a contractor. He bought the land at the price of K100, 000.00. When selling the land in 2009 his starting price was K1, 000,000.00, representing a tenfold increase. A related transaction of reselling land involved a 0.4 hectares land owned by the Mzembe family. This parcel of land is located along the road to the airport, and the starting price was K5.5 million. During interview Mrs. Mzembe suggested that she would reduce the price down to K4.7 million. Apparently, this is a fourth parcel of land that she was selling, having sold three other parcels in the previous years. In her view, the land is partially fenced, although half of the brick wall fence was erected by the family that owns the neighbouring plot. Reselling this land entails taking advantage of the pre-existing developments, those provided by the state (water and electricity) and other private individuals

owning neighbouring plots. Unlike other transactions, where the seller and the buyer would conduct the transaction in the presence of the village headman and some witnesses only, she suggested that for her plot the process will go through her lawyer. This is an option that few sellers would consider given that the costs of engaging lawyers are high and only the rich and educated can afford or appreciate.

While anyone can be a speculator in the sense of being motivated by short term wish to earn big money, there are some people in peri-urban Blantyre who are known to be established land speculators. Most often they would buy land from the villagers, build a fence around it and a small house for servants, then sell it. Sometimes they lease the land before reselling. By leasing the land its value is uplifted significantly, reflecting the faith that buyers have in leased or private land. Also, leased land, unlike customary land, can easily be sold at speculative price to foreigners, a category that includes Asian businessmen, Nigerians, Rwandans and Burundians.

Speculative reselling land occur when people working in Blantyre city acquire land in the peri-urban villages and before developing it are transferred to other cities, for instance, to Lilongwe or Mzuzu. Many would claim that by reselling the land they avoid difficulties of managing construction work from a distance. Often, building projects by owners who are far away tend to stall or take too long to finish or sometimes work stalls completely and it is also costly due to lack of effective controls. There are many structures in unfinished state and at different levels of construction in the peri-urban villages of Blantyre whose owners live in other cities or districts of Malawi or in foreign countries. Other structures in this state are associated with speculative buying of land, and so, unlike in land selling by the villagers, reselling entails prices that are quite speculative. Yet, sometimes the reselling of land is inspired by a combination of diminishing economic opportunities and social pressure.

Diminishing Opportunities and Social Pressure

In some situations reselling land occurs where the primary motive is to relocate to another place in response to diminishing opportunities and sometimes to social pressures. To begin with three adjacent pieces of land owned by different persons were to be sold collectively, but then the transaction was cancelled. For the sake of clarity I will refer to these parcels

as A, B, and C. The owners were selling parcel A for K700, 000.00 and parcels B and C for K300, 000.00 each. The total price for the three parcels added up to K1, 300,000.00. Parcels A and B were being sold for the second time.

For land parcel A the seller observed that he intends to resale the land then relocate to Nsanje, the district at the southern tip of Malawi. He has been living on the land with his wife and three children, the youngest being a daughter aged 6 months. They lived in a grass thatched house. The land was initially bought by his parents who were at the time of my fieldwork living in Nsanje. The seller's wish was to join his parents. Apparently, he could not cope with living in what is gradually becoming an urban village without a proper job. Six months before my fieldwork he lost his job at a quarry in Chiradzulu district. He claimed that his parents own good agricultural land in Nsanje and that there are also prospects of going into fishing and fish vending given that the Lower Shire valley is one of the good fishing grounds. Some of his family's relations live in Mozambique and so he and his wife could also be able to cultivate land on the Mozambique side of the border in Nsanje district. Apparently, land in Mozambique is thought to be very fertile and so does not require any application of fertilizers as is often the case in many areas in Malawi.

Parcel B, estimated to be about half the size of parcel A was then vacant. There were piles of broken green bricks, an indication that there was a house before. The owner of parcel A observed that the owners of parcel B were forced to relocate by fellow villagers some two years earlier. The family, which originally came from Ntcheu district in central Malawi acquired the land by buying, but had to leave due to allegations of practicing witchcraft. One of the young boys in the village died in mysterious circumstances and it was then alleged that he was bewitched by the woman who lived on this land with her husband. The woman was also accused of teaching witchcraft to several other young children in the village.⁷³ Writing about the Lhomwe people of southern Malawi Boeder observed that "If a person is arrogant, argumentative, fearless, does not respect older people, is proud, devoid of human compassion, and acts in a socially unacceptable way he can be

⁷³ Witchcraft is a persistent cultural belief. The belief in witchcraft is apparently old. Harry Johnstone observed over a century ago that many people in Malawi ascribe the causes of diseases and death in the first place to witchcraft, and secondly to the direct action of God (Johnston 1897: 447).

regarded as a witch” (Boeder 1984:56). To date witchcraft offers explanation for many of the unexplained hazards of life, deaths, illness and accidents that plague rural and urban life.⁷⁴ Before the accused family left the village they arranged with another person to help them with the selling of the land in their absence.

It is common that when a married man dies his matrilineal relatives would sometimes claim his property on the pretext of following custom on inheritance. For example, one married couple acquired land in Mwera village where they built a residential house. Later on they also acquired two *dimba* gardens where they cultivated sugarcane and vegetables. When the man died his matrilineal kin organized themselves to appropriate the land and the house. The widow hired a carpenter to remove the corrugated iron sheets used to make the roof of the house and then left the land. During my fieldwork she decided to sell off the land. Apparently, after she got remarried the matrilineal relatives of her late husband were not happy that her new husband will be living with her in the house built on land bought by their deceased kin. In a related transaction, the decision to resell land had more to do with securing and protecting the interests of the widow and the children she had with the deceased man. The man died in what was described as mysterious circumstances. One of his siblings offered to use his own resources to complete the construction of the house he had already started building and was actually planned to a business premise. The widow objected to the offer by her in-laws ostensibly concerned that the brother-in-law might claim ownership of the house. She suggested that the house should be sold and the proceeds shared between herself, her children and other dependents from the family of her deceased husband.⁷⁵ Such decisions are often made on the last day of mourning when the widow or widower is released (*nsudzulo*).

⁷⁴ Many peri-urban villagers believe in superstition, sorcery and magic. While rummaging through the sale agreements one of the village headmen provided me, I came across a small note or summon. Mr. Q was suspected of frequenting Mr. J at night disguised as a cat. In another village, a family living in a rented house was advised to leave the village for similar reasons. In September 2010 four siblings living in Blantyre city, but originally from the vicinity of my study area committed suicide after receiving revelation that their parents bewitched them so that they could not get married or find employment (see Emmanuel Muwamba, ‘Tragedy in Ndirande, 3 perish in raging fire’, *The Nation*, 2 September 2010).

⁷⁵ Reports on the practice of grabbing property date to the colonial times. Martin Chanock suggests that the earning and accumulating powers of individuals created conflict over who owned the money and goods acquired. Tensions increased with the nucleation of families. Relatives of dead men descended upon their widows, seizing goods, dismantling houses and

Peri-urban Land Buyers

A fundamental point often made by peri-urban villagers is that one does not buy land that already belongs to him or her or his or her lineage. In my reflections on the peri-urban land buyers I will focus on the relational issues by paying attention to five dimensions namely: the perception that peri-urban land buyers are largely strangers, how land buyers rationalize the buying of peri-urban land, the perception that land buyers are bosses from the city, multiple acquisition of land, and some gender dynamics.

Buyers as Strangers and Normalization of the Transactions

One of the interviewees in a government office noted with bewilderment that the people buying land in the peri-urban villages have actually forgotten where they come from or belong, and so where they are normally expected to invest in residential houses. From the interviews and on the basis of the physical and postal addresses provided on sale agreements, people buying land in peri-urban Blantyre come from all over Malawi, though most of them are from the districts within southern Malawi. On sale agreements a good number of the buyers provide Blantyre based postal addresses. The pattern depicted in the 53 sale agreements is as follows: Blantyre (20), Nkhhotakota (1), Karonga (1), Lilongwe (1), Dedza (1) Balaka (1), Mulanje (3), Chitipa (1), Ntcheu (1), and Thyolo (3). Twenty (20) of the buyers did not provide any address. Blantyre, Balaka, Mulanje, and Thyolo are districts in the southern Malawi, Nkhhotakota, Lilongwe, Dedza and Ntcheu are in the centre, while Karonga and Chitipa are in the north (see figure 3.1). The relative over representation of the buyers from the south could be correlated to proximity to place of origin.

The perception that all the land buyers are from the city is however erroneous. Even some local villagers are also involved in the buying land. Some local villagers buy land for farming purposes. People buying land for this reason are few in number given that prices of land in the villages closer to the city are high and generally unaffordable to the majority of the local villagers. One of the few instances encountered is that of one old woman referred to as Agogo. She relocated in 1998 from another remote area of

in some esoteric cases, demanding gratuities and workman's compensation payments (Chanock 1985:233).

Blantyre on the opposite side of Michiru Mountain. Her son, who now lives in Blantyre city, bought her two fields, one where he constructed the house where Agogo and her grandchildren live, and the second field is her garden where she grows some maize and other food crops. After a couple of years Agogo bought a *dimba* at K3000.00. With respect to her reasons for relocating Agogo observed that “This child of mine is the one who provides most of my needs. If it were you, would you refuse to relocate when asked to do so by the person who provides your daily needs? Would you?”⁷⁶ Her situation suggests that buying land is sometimes motivated by complementary goals of residence close to the city and the potential farming opportunities even if is at the subsistence level. Another instance involved the village headman Mbanga who bought some land in a village next to his own village. He had to buy land to accommodate the interests of his family of procreation- the wife and children. Within the matrilineal system the children of the village headman are not part of the village headman’s descent group, but that of their mother. This aspect reflects the matrilineal puzzle where any married man has to negotiate conflicting interests as a father and as an uncle (warden of a sorority). Where the children of the village headman live in the village of their father, their position with respect to land is tenuous. Land shortages and monetization of land relations make it difficult for children of such men to inherit land from their father.

Some local estate agents, Gwembe, Fanuel and Chitseko as described in chapter 7, have also acquired some land by buying within their own villages of birth or in neighbouring villages. Chitseko acquired land within his home village with the intention of either reselling later on or building houses which he could rent out. Like village headman Mbanga, buying land is also a way of securing rights in land for his children since in their mother’s village there is no land which they would inherit. From this perspective buying land is not what people from the city do but what people who need land for various ends are practicing. The reasons are varied and so the actual experiences are also diverse. In general, when people buy land in peri-urban villages they do

⁷⁶ I imagined myself in the shoes of James Ferguson interacting with one retiring mine worker in the Copperbelt of Zambia. As Ferguson write, “Now approaching retirement, he reflected sadly that he had little choice but to go live out the rest of his life in what he saw as a squalid and unfriendly village, and to try to do what he knew would be impossible – to live, as he said, “like an ordinary villager.” “You wouldn’t want to live like an ordinary villager?” I asked. After a long, searching look into my eyes, he replied: “Would *you* like to do that?” (Ferguson 1999: 229).

so for themselves and their children, not for their lineages.⁷⁷ The exception could be men from patrilineal backgrounds or woman from a matrilineal background. In these two cases inheritance by the children of the buyer will logically follow the structure of the buyer's family norms even as the act of buying customary land raises questions.

For the urban based buyers, the impetus to buy peri-urban land relates to the challenge of acquiring land within the city and from state institutions established for that purpose, which is increasingly becoming a nightmare. This challenge is often one of the subjects of discussion in places of work and in entertainment places. There is however also a perception that foreigners, mainly Indians and Nigerians are having it easy to acquire land or houses in the towns and cities than citizens. Some also note that among Malawians those from certain regions have an upper hand, especially in the allocation of land by state institutions. Some attribute the trend to nepotism, especially at Malawi Housing Corporation (MHC) since the 1990s, and corruption at the department of lands.

Many people who have applied for land at MHC, the city assembly and the Department of Lands have been on the waiting list for over a decade.⁷⁸ Some people even wonder whether it is possible for a common Malawian without 'appropriate' political or ethnic affiliation to acquire land from the state. As Mende put it, "I submitted the applications to the Malawi Housing Corporation, Blantyre City Council and the Department of Lands in 1998. I have been waiting for feedback for 11 years. I can't really imagine how ordinary people really struggle to get land when I, at least a well-known figure, cannot acquire land from the Ministry of Lands, MHC or Blantyre City Assembly." Sentiments and experiences like these discourage some people interviewed from even trying to apply for land from the state institutions. As Lomoni also revealed, "I was actually told by others that at the city assembly the waiting list is quite long. I have not bothered to apply.

⁷⁷ This scenario is also reflected in the work of Donner (1992) in the Solomon Islands where the trend is for the buyers to include both daughters and sons as equal partners in the inheritance of privately acquired land. This practice does not change or affect the tracing of descent along the matrilineal line (cf. Holy 1986 for other forms of property).

⁷⁸ These are agencies or departments of the state involved in land matters, Town Planning and Estates Management departments of the city assemblies are responsible for managing traditional housing areas (THAs) and land development and administration. The Lands Department has the overall responsibility of managing public land. MHC is responsible for development and administration of land and housing estates, including issuing yearly tenancy and long-term land leases in the towns and cities.

Here in the peri-urban village there is always someone willing to sell land on reasonable terms.”

The state’s failure to provide land, as one of the public goods, contributes to the normalization of peri-urban land transactions at least from the peri-urban land buyers’ point of view. Since 2002 the Blantyre City Assembly has received about 10,000 applications for plots but during the same period the number of plots available and allocated amount to less than 10 per cent of the number of those applying.⁷⁹ With respect to the Malawi Housing Corporation at the beginning of 2010 there were for Blantyre city alone about 40,000 applicants on the waiting list for housing. Information about the availability of serviced plots at MHC for self-development is however anecdotal.⁸⁰ With respect to the Department of Lands, there are no serviced plots available for distribution except for 600 plots been developed in Kanjedza area of Blantyre.⁸¹ The public authorities’ capacity to provide land for residential development is below expectations and rather constrained, but also subject to corruption. As the UNCHS writes about Africa, state authorities have poor record of providing affordable land for the majority of urban dwellers. In many cases, the system of land allocation, if not designed to facilitate corruption and exploitation of those seeking land, at least is adapted to do so (UNCHS 1996:253).

Buyers as Bosses (*mabwana*)

Land buyers in peri-urban land transactions are not always perceived as poor. Some of them are college and university graduates, in middle management position, and earning a good salary or in self-employment, but they find opportunities to acquire land or houses in the city frustrated by state bureaucracy, corruption or sheer inefficiency. Often such land buyers are described by the peri-urban villagers as bosses from the city (*mabwana a*

⁷⁹ Information provided by the Department of Town Planning and Estates Development at the City Assembly.

⁸⁰ Personal interview with two officers at MHC. MHC has been criticized for clandestine allocation of plots.

⁸¹ Based on interview with one officer at the Department of Lands (south). The Minister for Lands, Housing and Urban Planning claimed later on that there will be a total of 800 low and high density housing plots. See Mallick Mnela’s article “Plots drawing takes off in Blantyre”, *Zodiak Online* (26th November 2010). http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1578:plots-drawing-takes-off-in-blantyre&catid=37:features&Itemid=53

mtauni). A typical buyer, where being typical is relative, would often come to the village driving a car. Some of the cars are privately owned or personal, while many others are company cars. Driving a company car is, especially a four wheel drive (4X4) vehicle, a symbol that one is in a good job or holds a senior and well paid position. In other words, one is a boss (*bwana*).

Writing about *mabwana* in Malawi, Lwanda (2009) observes that the Malawi society could bifurcate into two broad groups: ordinary or non-elite people (*anthu wamba*) and the well-off enough or the elite (*abwana ndi adona*). *Bwana* (sir or more appropriately boss) is male and *Adona* (madam) is female. It is common in everyday usages that both male and female bosses are referred to as *bwana*. What makes this categorization relevant here is what Lwanda goes on to suggest as the major attributes of the two categories. In the first place, the ordinary people fall into two groups, those who are better off (*anthu wamba opeza bwino*), including lower scale civil servants, other salaried employees like teachers, small scale farmers, salaried industrial and agricultural workers, artisans and craftsmen and women, skilled tradesmen, some small enterprise business people, and other of middle peasantry; and the poor ordinary people (*anthu wamba osauka*) who are essentially the majority of the rural smallholder farmers, unskilled manual workers, the self-employed hawkers, urban township dwellers and squatters, and small scale fishermen. The *abwana ndi adona* can also be divided into two groups: *abwana ndi adona achikulire* and *abwana ndi adona opeza bwino*. The *abwana ndi adona achikulire* are the big land owners, big businessmen and women, professionals with business interests, senior police or military (army) figures with business interests, some traditional leaders with business interests, estate owners, politicians, parastatals bosses, big NGO and multinational company representatives. The *abwana ndi adona opeza bwino* include professionals with or without business interests, civil servants at the middle or higher scales, salaried company executives and higher clerical officers, small estate owners. Lwanda claims that in numerical terms, *abwana ndi adona achikulire* and their families comprise about 0.5 per cent of the Malawi population, *abwana ndi adona opeza bwino* comprise about 5 per cent, *anthu wamba opeza bwino* and their families 20 per cent and *anthu wamba osauka* and their families 74.5 per cent of the population. While the land sellers are often poor ordinary people (*anthu wamba osauka*), the land buyers are mostly *abwana ndi adona opeza bwino*. It is not easy to establish explicitly the socio-economic status of each buyer. Any potential buyer is referred to as boss (*bwana*) and madam (*adona*), with a

few exceptions where the term *abwana achikulire* (big boss) is used. The buyers include business persons, doctors, teachers, soldiers, police officers, lawyers, engineers, IT specialists, tax collectors, bankers, just to mention some.

The image of the boss or madam buying land is evident in everyday talk by adults in the villages, and also in how children react every time they see a car. Driving through the villages visitors are likely to meet children chanting *Abwana! Abwana!* (Boss! Boss!). It is also common to see or hear children begging for money from the bosses or opportunity to ride a car. Such scenes are quite commonplace, including at local primary schools. At the primary schools pupils spend break time playing football on the schools' dusty football pitches and other open spaces. In schools where there is no school feeding programme, such pastimes are meant, to 'kill' time and hunger. The balls are often home made using plastic paper and big stones are used as goal posts.



Figure 4.2 Village boys playing football during break time

Accompanying prospective buyers to inspect land reveals several important dimensions towards understanding the buyers. Such encounters also provided opportunity to appreciate how land as a commodity is imagined. The buyers think of land as a place where to live, where to invest and also as a commodity of greater potential value. My encounters with one family will illustrate this perception. I accompanied one couple to meet the local estate agent known as Tambala, who was then asked by three different

villagers in two neighbouring villages to help them sell three parcels of land. Having inspected all the three parcels it was time for the couple to discuss their preferences. For the first parcel inspected, the picture I got was that this family was planning to build a residential house. But the question was whether they would be able to find tenants and how much would that investment bring in monthly rentals. The second parcel, which is smaller and located next to high voltage power lines was ruled out as unsuitable. The third parcel located closer to one of the main streams directly opposite to one of the big poultry farms in the area, but far off from water and electricity grids, was considered favourable for farming in the meantime. They decided to buy the first and third parcels, but subject to favourable negotiations on the price. Where the sellers and the estate agent were in doubt over the possibility of selling it due to poor accessibility, the buyers saw opportunity. Apparently, building a house for rent on one and growing maize on the other were portrayed as complementary to each other given the proximity of the two parcels, though they are located in two different villages. In their view the supervision of construction work on one and tending to the maize crop on the other could be performed simultaneously.

While it appears that both men and women are buying land, my encounters in the peri-urban villages and information on the sale agreements for transactions I did not witness suggest that most of the land buyers are men.⁸² From the 53 sale agreements, 32 buyers are men, 14 buyers are women, while 5 are married couples and the last two are institutions (a protestant church and a statutory corporation). Although the sample at hand cannot be said to be representative of the general dynamics a few observations could be made. For most married men they buy land for their families (including the spouse and children). This aspect reflects the gender relations within families, given that men interviewed often described themselves as heading their families and family investments are registered in their name. It is also claimed that this act does not exclude women from the enjoyment of the investments or properties, though problems would often emerge when a couple divorce or the married man dies and members of his lineage lay claim to the property on the pretext of following custom. The situation is different for land acquired by women. Most of the women buying

⁸² Mann (2007) observed in colonial Lagos that women were sometimes able to acquire privately owned real estate in their own names, though they did so much less commonly than men.

land in their own names are unmarried, widowed or divorced. Where this is the case the decision to buy land and build own house is often described as manifestation of women empowerment. For instance, Mrs. Mwala bought land in one village from the village headman soon after separating from her husband, ostensibly to demonstrate that she could manage on her own. Then, she was living with her mother and she had her as witness in the transaction. Since then, she has acquired another piece of land within the city.

Multiple Acquisitions of land

For many *mabwana* when they buy land and then build houses they claim that they are now settled or established (*kukhazikika*). This implies that those buying land are looking for space and opportunities to settle (as settlers or new comers) and the act of buying land is perceived as a major step towards doing so. Mapira, a transporter, talked about being established in Mzara village where he has built a big house and from where he is also engaged in different business activities. He also spoke about buying another parcel of land in Mwera village in 2006 as part of that process. Malawians resident in South Africa and overseas are also buying land and building houses in the peri-urban as a step towards being established prior to their return back to Malawi. Such migrants send money to relatives who arrange to buy land on the migrant relation's behalf and some proceed to manage the process of constructing houses.

Like Mapira there is a tendency among land buyers to acquire more than one parcel of land. For instance Mwanga acquired the parcel of land or plot in 1991. Since then he has acquired three more plots and built three houses. He and his wife, who is a medical doctor, live in one of the three houses while the other two houses are occupied by tenants. As he put it "You can just imagine now I am established as a landlord and I have tenants living in my houses." His plan for the fourth parcel of land is to build a lodge. Several other peri-urban land buyers mentioned acquiring more than one parcel of land, and they would wish to have more for investment reasons. Some buy land just to hold it as future potential source of wealth or capital. Mende has so far bought three pieces of land. He has built a house on one of them, he grows maize on the second one, and he has built a grocery store on the third parcel. Mende has also assisted five of his workmates acquire land in the

neighbouring villages. Several other buyers interviewed claimed having assisted or being assisted by siblings or other relatives buy one or more parcels of land. Therefore friendship and kinship are important metaphors in the buying of peri-urban land and it appears that the buying and selling of peri-urban land contributes to the reproduction of friendship and kinship ties, which are also important in the process of getting established. Some of the buyers interviewed have also acquired customary land in different areas of Blantyre's big peri-urban space. For the buyers cited in the table below the average land acquisition is at 2.5 parcels per buyer (table 4.1).

Table 4.1 Multiple Acquisitions of Land

Buyer	Total plots Acquired	Plots (fields) acquired in peri-urban villages	Plots acquired from the state or private owners
Mwanga	4	4	-
Chulu	5	4	1
Chisa	3	3	-
Mende	3	3	-
Jambo	2	2	-
Lomoni	1	1	-
Mwala	2	1	1
Likonde	2	1	1
Mapira	2	2	-
Likoma	2	2	-
Agogo	3	3	-
Mbaya	1	1	-
Total	30	27	3

Source: Interview with the buyers

Multiple acquisition of land, in different parts of the city or peri-urban villages is considered a big milestone or achievement given that land has become an object of accumulation over and above its use as a means of subsistence. For some people owning land is not just to produce material conditions of survival and enrichment, but also to gain status. In addition buying land in peri-urban villages has several attractions. Some people living within the city admire those living in the peri-urban villages. The major

attraction is the possibility of acquiring big parcels of land than is normally feasible within some areas of the city.

Buying big and cheap land and the occult

Most of the plots or fields that people buy in the peri-urban villages are comparatively bigger in relation to the ‘standard’ size of plots offered by the Malawi Housing Corporation or the city assembly. The standard size plots in the city are: 18 m X 30 m for high density, 25 m X 45 m for medium density and 30 m X 60 m for the low density.⁸³ Small plots or fields in the peri-urban villages are as big as medium density plots in the city, while big plots in peri-urban villages are even bigger than the low density plots in the city. Hence, the buyers’ perceptions of being established in the peri-urban area are socially situated and informed by the standards set by the state.

Most people buying land in the peri-urban villages are thus motivated by prospects of buying big (land), an aspect that is also understood by the peri-urban land sellers. As Chitsenga suggested to me:

“When you have time I will lead you to the villages closer to that hill. There is another small hill beyond that one. You will see for yourself developments taking place over there. Many people from the city are already building very big and magnificent houses. Many houses are at foundation level. There is one person who has built his house further away. It appears that many of the people buying land in that area are encouraged by the presence of that person. There is no piped water and electricity nearby, but one can easily find and buy very big land”

Some villagers fail to sell land closer to the tarmac road because many of the would-be buyers look for bigger parcels of land. For instance, in another transaction involving a very big piece of land the estate agent claimed that: “I learned about this land from the driver who works for my uncle. This driver has a small parcel of land that he is intending to sell. He has been unable to sell it because it is small. Most buyers want bigger parcels of land. Now that the bigger land next to his land is being sold, he thinks it is his chance to sell

⁸³ Standard measurements provided by the Malawi Housing Corporation. There are even suggestions to subdivide old low density plots to create more plots, also known as densification.

his own. Probably the one buying the bigger parcel can also buy his land as well.” The obsession with bigger parcels of land is driven by the curiosity to live and be established in spacious environment, even bigger and sometimes better than those in some medium and low density areas within Blantyre city. As one woman looking for land put it: “My wish has been to have a big plot where I can build a big house. Then I can walk around the house and be able to see it whole from any angle”.

Some buyers, who own big parcels of land, claim that they acquired the land bit by bit and in most cases over a period of several years, and quite often from different sellers. A point to be reiterated is that land owned by villagers is not all in one place, but it is in many segments interspersed with the land of other families. Mende, for example, bought the first piece of land in the year 2002. After some time another person owning the land next to his house offered him land which he agreed to buy it. His plan for the extra land now under cultivation is to construct pig houses. Advantages of big plots in the peri-urban villages include the viability of pursuing different interests. For example, one would venture into livestock production. The situation is different when buying land in the city. As Mrs. Mwala also observed, “When buying land within the city the land is in most cases very small, sometimes in a congested area, and it is not that comfortable since I want to venture into dairy or pig farming.” I would refer to the foregoing as buying big and it appears that it is increasingly becoming an obsession and symbolic of being established.

What makes people buy several or big parcels of land is the availability of land and the relatively lower prices of land. The village headman Chikowa observed that “In the city land prices are quite high, I am told in millions. Here land is cheap. This is the reason many people from the city are buying land here”. Usually the wish or expectation is to meet some villager who is desperate for cash and willing to sell land on bargain and flexible terms. One of the buyers described the man who sold him a three room structure at K350, 000.00 at one trading centre as follows: “He sold us land and the house at a giveaway price. He had serious financial problems.” The wish to buy cheap land is one of the reasons some potential buyers resent buying land through estate agents, whom they describe as responsible for the excessive rise in the prices of land. In some cases buying cheap entails buying fields together with the maize crop. As another interviewee recounted, “I bought this land together with the maize at the price of K60, 000.00. This

was after a discount of K10, 000.00. I did not negotiate much because I realized that it was quite cheap and very big compared to what I was offered at Gulliver at the same time at the price of K120, 000.00.” Having bought the land cheap and on negotiated or flexible terms as described later on, some buyers talk about how unwise some sellers can be.

The wish to be established, which includes buying cheap land is sometimes countered by exorbitant costs of connecting to piped water and electricity. In some cases, the wish to buy cheap and big drives *bwanas* to go for land that is cheap but often shunned by others because of its difficult terrain or location disadvantages. This includes buying land that is rocky or on steep slopes, which also requires expensive excavations. Other people buy land next to grave yards. It is common that graveyards are surrounded by cultivated fields. Rarely would one find houses built on the edge of the graveyard for various reasons, one of which is to allow room for expansion. Also, land associated with grave yards is regarded with considerable reverence as graveyards are metaphorically the eternal resting place of ancestors. But some people owning land around graveyards are now selling it to others with the tacit approval of village headmen. In some cases abandoned graveyard sites are also sold and one peri-urban village headman is alleged to have sold the graveyard for infants.⁸⁴ Also, in recent years some graves for infants have been subjected to vandalism.⁸⁵ In one of the peri-urban villages, it is alleged that hyenas come from the nearby mountain to exhume the bodies. Incessant barking of dogs during the nights following such burials would indicate the coming of hyenas. Yet, some suspect that the bodies are exhumed by traditional healers and witch doctors, businessmen or their agents hunting for body parts, which are then used as activating agents (*chizimba*) in traditional medicine (see also Englund 2002b:269 for use of *chizimba* in traditional medicine).

⁸⁴ When Malawi’s capital moved to Lilongwe in the 1970s several villages were relocated leaving behind some graveyards. Some of the graveyards have been opened up to housing developments. See newspaper article by Montfort Misunje ‘Developers defile graves’, in *Nation on Sunday*, 4 October 2009.

⁸⁵ An infant is not considered a being at all, and if it dies no elaborate funeral ceremonies are performed. Brief funeral ceremonies attended by women only mark the demise and burial, which takes place in separate graveyards or sections of graveyards used to inter adults. For the Nuer, as Howell (1970:147) writes, if a child dies before cutting its second teeth no mortuary ceremonies are performed.

The use of human body parts in charms is an ancient practice. David Livingstone, a Scottish missionary explorer, wrote in the 1860s about the death of a carpenter from fever during one of his expeditions in Malawi. The body was buried among reeds and no memorial was placed to avoid attracting notice of the natives. Apparently the concern was that natives would dig up the body for the sake of the clothes and parts of the body as charms (Clendennen 1992). In recent times, however, the association between wealth, financial or entrepreneurial success with the occult has been examined in Nyamnjoh (2001) for Cameroon, van Binsbergen (2005b) for Francistown (Botswana), Fischer and Hendrickson (2003: 72-3) among others. Such beliefs are extremely widespread and durable and often reveal salient parallels in widely separated times and places. Like in the Cameroon and Botswana cases mentioned above, many people in Malawi value hard work and respect economic advancement as just reward. At the same time there is deep suspicion of excessive wealth. Suspicion is further aroused by those buying land next to graveyards. They are sometimes referred to in derogatory terms as *wokhwima* (sorcerer). Where success is followed by suspicious deaths of close family members claims of witchcraft carry even more weight. I will illustrate the dynamics with a case of Master one of the people who have acquired several parcels of land by buying in recent years.

There are diverse ways, relations and leading circumstances to getting established and acquiring multiple landholdings. I will illustrate this aspect with the story of Master, who metaphorically observed that it is difficult to get established and become a boss in one's own home village. Master has for different reasons acquired three parcels of land in recent years. He is now 53 years old, but as a young man he joined the Malawi Young Pioneer (MYP), a paramilitary wing of Dr Kamuzu Banda in the 1980s where he got trained as a welder. After four years, he was shifted to the Malawi Police Service, where he worked in the welding shop for a while. Later, he was dismissed on the grounds of absenteeism. As he put it, he found the working conditions in the police service intolerable, especially the long working hours against low wages. Absconding from work became a strategy he often deployed to have time off to do 'piece works' so that he could earn for himself some money. Then after he was dismissed he worked with several construction companies as a welder and later as a foreman. The major assignment Master remembers well is ironically the work on the private home of Dr Banda. Now Master is self-employed. He has bought several parcels of land in and outside Blantyre

city. Master bought his first parcel of land in 1986 from one of the village headmen, who is now deceased, at the price of K1, 300.00. Then Master went on to build several houses that he is at the present moment renting out. Besides that, Master has acquired land along the Chikwawa road. What prompted him to buy land away from his village is that he realized that he could not prosper while living close to his home village. Master observes that people from his village have strong beliefs about witchcraft. When one is prospering in business or other work they attribute the success to magic. On two occasions Master has been accused of bewitching his relatives who later died. The first incident occurred when he opened a grocery store in his home village. A few months after opening the store one of his brothers (a parallel cousin) died. It was alleged that Master killed him so that his business could grow. His immediate reaction was to close the store and relocate to another place. While in the new place he opened a welding shop. After a few years one of his brothers was struck by lightning and died. Rumour spread that Master killed his brother so that the welding shop could also prosper. Those spreading the rumour convinced others by analogy whereby the lightning represents the sparks generated during welding.

Setting the Price of Land

In a more general sense the price of land is subject to demand and supply even though the process of setting the price is itself very subjective. Not all parameters that contribute to the value or price of land can be explained explicitly. I will pay attention to five dimensions, namely: determining the price; rising prices, demand and value of land; negotiating the price; crisis selling and negotiability of prices; the notion of acceptable limit. My analysis will pay attention to the relational issues and how the sellers and buyers position themselves. To some degree these elements reflect incomplete commodification of land and the social and cultural embeddedness of the transactions.

Determining the Price

Once a prospective buyer is interested in a piece of land what follows is the bargaining for the price, with each party trying to secure the best price possible. In most cases negotiations are conducted between the seller and the

prospective buyer. In some circumstance, estate agents undertake the bargaining on behalf of the sellers. There are also instances when prospective buyers rely on estate agents or relatives and friends to negotiate on their behalf or at least involve them in the process. Bargaining focuses on the price and sometimes on the terms of payment. I will dwell on the pricing aspect only.

One variant of land price is proximity of the land to the main road or a trading centre. Land at or closer to trading centres is referred to as commercial land and thus it attracts higher prices than land further away. Proximity of the land to services such as electricity and water is also an important aspect. When setting the price the sellers always refer to these factors, but it is difficult to explain explicitly given the subjectivity that goes with it. A general statement on the pricing of land is that land that is closer to the tarmac road or any all-weather road, close to water and electricity supplies, and also where there are already other developments, for example close to the trading centre or well-planned houses, is considered well sited and so it attracts higher prices.⁸⁶ The size of the land is also considered when determining the price. Often, small land parcels attract in relative terms lower prices than large land parcels. This is not the case, however, in the case of smaller land parcels with better location advantages. The benefit of buying large plots is that as the plot size increases, the price of the land per square metre diminishes (cf. Thirkell 1996). That is, smaller parcels of land or plots are proportionally much more expensive to buy than larger parcels. Also, land that is well drained and ideal for residential uses is priced highly than land that is not well drained and prone to water logging conditions. Yet, wetlands highly valued since they are agro-ecologically ideal for all year round cultivation.

In addition to proximity to utilities such as water and electricity and access roads, other more sociological factors play some role. Closeness to other modern houses is an important consideration. Notable people in society, for example well known politicians, popular musicians, national football team players, high profile lawyers, chief executives of companies, and institutions such as schools and churches, are often cited as important features when determining prices. In the absence of layout plans they are

⁸⁶ Writing on land values in Mexican village Oscar Lewis once observed that "Distance from the road and from the central plaza, and proximity to one of the twenty-six water fountains, are the most important factors affecting the price of land" (Lewis 1963: 124).

actually mentioned and used as markers in some sale agreements. Hence, the pricing and negotiation for the price of peri-urban land becomes devoid of meaning if the social and also infrastructural context of the land is not appreciated.

Rising prices, demand and the value of peri-urban land

Many people who acquired land several years back claim that prices of land are rising at a fast rate, and so peri-urban land is over time becoming more expensive. Three examples would illustrate this perception. Fanuel and his sister sold a parcel of land in 2007 at K60, 000.00. A year later the person who bought it was able to resell it, without making any investments or developments on it, at the price of K200, 000.00. In another transaction, a family sold land at K200, 000.00. The one who bought it built a small two roomed structure meant to serve as a store room while building the main house. The buyer resold it after two years at the price of K2.2 million. A related development involves two adjacent parcels of land, here referred to as parcel X and parcel Y. Parcel X is almost one and a half times bigger than parcel Y. In 2008 parcel X was sold at K670, 000.00, but the starting price was K700, 000.00. In 2010 the starting selling price for parcel Y was K1.8 million. The apparent rise in prices of land is partly related to the growing demand for land, which in turn correlates to the apparent outward expansion of the city.

Given the rising trend in the prices of land, a person who has good and big land is often described as having wealth. There is also a perception that unlike in the past, a big parcel of land cannot sell at less than K200, 000.00. Those people who are able to retain some land and sell later expect to earn even more money. This expectation explains the tendency by some peri-urban villagers to sell land bit by bit over time. Also, in any one land transaction there could be five or more prospective buyers. The number of people coming to inspect the land gives exaggerated notion of demand. Some sellers and sometimes estate agents are tempted to raise the price even further. As one local estate agent put it, “What we want is money. Until money is paid we bring different people to see the land. We also reserve the right to raise the price as we see fit.”

On the rising of prices of peri-urban land in recent times, many sellers claim that selling land implies permanent loss and so selling land at low prices

is like giving it away. As one of sellers put it, “Do you know *bwana*; do you know *bwana* what happens? Selling land means that we might not have any rights in the land. The land becomes yours. Therefore, if we are to sell as we do with tomato, we will soon realize that all the land is gone and the money is finished before we have achieved any of our wishes for selling the land. That is the end! You will be happy living on the land while we are destitute. Do you appreciate this?” From this perspective the rising prices of land do not reflect just the rise in demand but also the realization among the peri-urban land sellers that land is probably the only resource they have and so selling it at giveaway prices would not do them any good. Further put, the need for cash by the sellers is driving the rise in prices of land.

Given the rising demand for land bargaining for the price for land, at least from the land seller’s point of view, is like bidding from the high to the low level. In some cases the seller might cancel the agreement for another offer even after taking a deposit. For this reason among the villagers themselves there are also views that the pricing of land is increasingly becoming emotional and sometimes without rational basis. As Chitsenga observed, “Many people selling land are now charging high prices as if money is not difficult to find. Sometimes I wonder at how people arrived at the high prices. My question has always been has she ever handled such a large sum of money before?” Similar sentiments could also be heard from local estate agents. As Salima observe in one particular transaction: “The prices that people are charging are stunning. Sometimes I ask myself whether these prices are meant to scare off would be buyers.” This claim is a paradox given that estate agents are in turn criticized for overcharging.

The fact that buyers are willing to pay large amounts makes the sellers believe that they could get even better offers.⁸⁷ Also, it would appear that reselling land is contributing to rising prices of land. In one transaction involving reselling of land the nephew of the seller suggested that anyone

⁸⁷ Oscar Lewis observed similar trends in Tepoztlan village, Mexico. Until 1942 Tepoztecs were very reluctant to sell land to outsiders. A leading Mexican banker who wanted to build his home in the village had to negotiate for over a year before he could succeed in buying “a modest-sized, idle plot of land whose owner was then living in Mexico City.” Likewise, Lewis’s own assistant had to wait for months before she was able to find a plot of land at a considerable distance from the centre. Yet, when Lewis returned to the village three years later Tepoztecs were looking for land buyers. Three individuals offered to sell him a house plot. As Lewis put it, the high price paid by the Mexican banker and a few other early comers gave Tepoztecs an exaggerated notion of the value of their land (Lewis 1963: 124 – 5).

wishing to buy that land should not expect a big discount given that his uncle is a rich person, noting also that rich people and people reselling land are often difficult to negotiate with. This aspect suggests correlation between reselling land, the sellers' income level and apparent perceptions of the value of peri-urban land.

Negotiating the Price

Many buyers claim that what they like about peri-urban land transactions is that prices are always negotiable. Land sellers, estate agents, and village headmen too agreed that the price of land is always a negotiated outcome. When deciding on the starting price sellers and sometimes estate agents are mindful that the actual price is likely to be lower given the negotiating skills of the potential buyer(s). This is not true in all the transactions. There are some sellers who are difficult to negotiate with. An example could be given of the man reselling land at K1 million. A certain lady called him to negotiate down the price, but he refused. When the lady phoned him again he simply asked her if she has raised the money or not, and then cut off the call. Basing on my data on prices of land most negotiations for the price often lead to reductions in the price in the range of between 5 and 40 per cent (table 4.2).

Table 4.2 Negotiated Prices of Land in Some Transactions (2001 – 2010)

Seller (S) /Buyer (B)	Year	Starting price (A)	Price paid (B)	Discount (A – B)	Per cent (%)
Milward (S)	2001	500,000	400,000	100,000	20
Mende (B)	2003	70,000	60,000	10,000	14.3
Kanjunga (S)	2005	600,000	550,000	50,000	8.3
Dziko (S)	2010	230,000	150,000	80,000	32
Chikho (S)	2007	280,000	255,000	25,000	8.9
Chitseko (S)	2009	350,000	300,000	50,000	14.3
Mwala (B)	2007	120,000	100,000	20,000	16.7
Zulu (S)	2008	100,000	80,000	20,000	20
Chitseko (S)	2009	300,000	270,000	30,000	10
Chitseko (S)	2009	250,000	200,000	50,000	20
Msamala (S)	2009	470,000	400,000	70,000	14.9
Zulu (S)	2009	1,500,000	1,100,000	400,000	26.7
Fanuel (A)	2008	75,000	60,000	5,000	6.7
Fanuel (A)	2009	200,000	180,000	20,000	10
Chikho* (S)	2009	250,000	215,000	35,000	14
Chikho* (S)	2000	80,000	60,000	20,000	25
Mbalame's (S)	2008	400,000	350,000	50,000	12.5
Mbalame (S)	2010	300,000	250,000	50,000	16.7
Moses (S)	2009	700,000	670,000	30,000	4.2
Mbewe's (S)	2010	850,000	600,000	250,000	29.4
Chulu (S)	2010	950,000	800,000	150,000	15.7
Gwembe (B)	2009	85,000	50,000	35,000	41.2
Blessings (A)	2007	900,000	650,000	250,000	27.8
Lomoni (B)	2007	65,000	55,000	10,000	15.4
Fyson (S)	2008	220,000	180,000	40,000	18.2
Mulipa (S)	2009	700,000	650,000	50,000	7.1
Mereka (S)	2010	1,300,000	1,100,000	200,000	15.4
Lameck (S)	2010	500,000	430,000	70,000	14

Source: Personal interviews with the sellers (S), buyers (B) and agents (A).

* The two transactions relate to the same piece of land.

Through haggling the price acceptable or tolerable to both a land seller and a land buyer is reached and so other processes like meeting the village headman or other members of the seller's family and the witnesses are arranged. However, negotiating the price is not an easy process given that there are always other interested parties to the transaction. All or most of them have to be satisfied that the price is reasonable. This aspect represents another subjective experience of selling or buying land in peri-urban villages. The subjectivity is magnified in cases where an estate agent is involved and sometimes in situations where a village headman would ask for a certain percentage, usually 10 per cent of the price, as his signing fee as will be explored in the next chapter.

Negotiation for a lower price is part of everyday life. On one of the occasions I met Chitseko by chance at one local trading centre. He was accompanied by Chimwemwe, the barber shop owner. Chimwemwe followed closely behind Chitseko and I could overhear him asking Chitseko whether he was going to pay him or not. Then Chitseko gave Chimwemwe a K20.00 note. When Chimwemwe argued that he was expecting K60.00, Chitseko asked me if I could spare some money so that he could 'sort' out Chimwemwe. I fished K40.00 from my pocket, passed it on to Chitseko who passed it over to Chimwemwe. Then Chitseko asked me to accompany him to Mwera village, where a certain young man was planning to sell land. On our way we passed through fields that were tilled ready for planting, and from time to time Chitseko pointed at the heaps of broken brick, plaster and concrete scattered all over the fields, which in his words were sites where grocery stores and bars stood close to two decades ago. The buildings were eventually pulled down. The land is now cultivated by the teachers and other employees at one of the secondary schools in the area. Recalling the past as a small boy Chitseko observed that the land was taken over for a pittance by the government when TEBA closed. When we arrived at the next village we found a young man waiting. He showed us the land, a triangular shaped piece of land, and the developments on it included a small grass thatched hut measuring approximately 20 m² (4m by 5 m). The walls of the house were made of green bricks and it had a simple wooden door and two wooden

window frames fitted with cardboard paper instead of glass panes. The seller mentioned that the price of the land is K280, 000.00. He was also quick to point that he was open to negotiation. After a few minutes of discussion he cut the price down to K260, 000.00, then K240, 000.00 and finally down to K220, 000.00. As we left, he said if there could be someone who is interested; he could consider going down even further, subject to the consent of his brother who lives in Blantyre city. My observation was that the price of this land is on a higher side considering that it is not as big as the other parcels of land Chitseko had taken me to see earlier on. Yet, the seller was quick to point that the land is well positioned given that electricity is within reach, and pointing at a brick wall fenced house located about 100 meters away, he suggested that piped water could be within reach too. Further, unlike other places where buyers have to negotiate for road access, in the case of this land there is already a 2.5 meter wide earth road. As we walked back, Chitseko drew my attention to the seasonal variation in prices of land. He pointed that prices also vary depending on whether the person intending to buy is a fellow villager or an outsider. Prices of land are usually high between the months of April and October, that is, between harvest time and the planting time, but low during the rainy season when the fields are planted. The actual dynamics relate to what is known as crisis selling.

Crisis Selling and Negotiability of Prices

When I met Mbalame towards the end of October 2009, he informed me that if he had money he could buy land during the ‘lean months’, the period between December and February. In Mbalame’s view, during these months many families have low food stocks, and most of such families would best be described as starving. During this period desperation drives many people to sell land on bargain terms described locally as giving away the land or “crisis selling” (Thirkell 1996:85). There are fewer people interested in buying land during this time of the year. Even urban estate agents rarely come to the villages to scout for land. Villagers themselves have to go around places looking for would be buyers. Some villagers would sell good and big parcels of land at prices ranging from K20, 000.00 to K50, 000.00. Sometimes the land is provided as surety for a small loan (*kupinyolitsa*). After a couple of minutes Mbalame repeated his wish that if he could have money he would buy up such land and resale later. His aspirations are countered by his

objective situation, that he would not have the money. He is in the same situation as many of the villagers he talked about as almost starving. Mbalame mentioned that his immediate wish is to buy two bags of maize, which was then going at the price of K2, 500.00 per 50kg bag. He observed that in contrast to the price of land, the price of maize was likely to go up between December and February. His limitation was that he had no money even for the two bags of maize he needed for food to take him and his family through the lean months. These sentiments were later on elaborated in interview with Mende that “Prices of land depend on season. If you come between October and January you may find land going at cheaper prices. This time of the year many families have no food. This time also coincides with the commencement of the school calendar. People want to sell land so that they can pay school fees for their children. December is festive season, people want to get some money and enjoy themselves. So, this time land is cheaper, but during or soon after harvests, prices go up because they are not desperate.”

During the rainy season fields are overgrown with crops or weeds and thus difficult to access, and sometimes access roads are muddy and impassable. Generally, because of the crop cover, many people feel that this is probably not the right time to buy or sell land. There is also the need to raise money needed to buy fertilizers. The rainy season is also the time when people fall ill quite easily due to high malaria attacks and incidence of water borne diseases. The disease burden poses heavy financial demands given that free medical attention in the government hospitals is not always adequate and so people have to go to private clinics or mission hospital for any ailment. For these reasons, the pricing of land and the negotiations for the price that follow are subject to the development challenges sellers grapple with. In one of the few focus group discussions one participant reported selling land to pay up hospital bills incurred when his child was admitted to the mission hospital. The child eventually died and the family had to pay a bill of K45, 000.00 and costs related to purchase of the coffin, food and transport. The incident happened just before the beginning of the rainy season and the family had to sell land that was already tilled. This discussion coincided with the change of the 2010 school calendar when the school term commenced in the first week of December 2009 instead of early January 2010, which affected the cash flow of many families.

Prices of land under crisis selling are unusually low. Mamo Hebo writing about experiences in Ethiopia observed that circumstances under which the transactions occur imply that land is often disposed at prices below fair market value, which in the case of some parts of drought prone Ethiopia implies during more widespread or local calamities (Hebo 2007). Substantial supply of land against low demand leads to sharp swings in land sales and prices.⁸⁸

As much as crisis selling leads to bargain prices, not all bargain prices are related to crisis selling. Sometimes selling at bargain price is a strategy to sale off the land quickly. Mereka reduced the price of his land by a big margin because he wanted the money immediately for reasons other than to buy food. As he put it to the potential buyer, “Sir, tell me how much can you afford. I really need the money now because I have found a lorry that I want to buy. That lorry is quite good. If I can buy it, I will be able to drive it freely on public roads. The shop you see over there, the DAPP shop, sometimes they hire lorries to bring bales of second-hand (used) clothes.” When the potential buyer informed him that he is looking for land closer to the tarmac road, he became very disappointed. Then he offered to sell him another piece of land that is a little bit smaller, but closer to the trading centre. The second piece of land belongs to his sister. As Mereka also put it, “This land belongs to my sister. I will talk to her. If she accepts I might sell you. The price will be negotiable.” Other experiences suggest the importance of patience on the part of the sellers if they are to benefit from better prices. I will illustrate this point by drawing on two transactions in Mwera village involving two young men. Mbalame sold his land at K250, 000.00 while Dziko sold his land at K150, 000.00. Yet Mbalame’s land was almost half the size of Dziko’s land. Mbalame observed that luck and patience helped him sell the land at a good price. It is apparent that if he were impatient he could have accepted a lower price. Mbalame emphasized that being patient helped him sell his land at an acceptable price. By implication there is always some imaginary acceptable or appropriate price and the wish is to bargain for price or sell within the acceptable limits.

⁸⁸ Diduk (1992) writes for Northwestern Province of Cameroon that the economically marginal dispose of land when they are in need of money for medical bills, death ceremonies and bride wealth payments.

The Notion of Acceptable Limit

It is always expected that buyers will negotiate and bargaining is almost a norm. It would be inconceivable from this perspective for the buyer to accept any price without haggling. In anticipation of protracted haggling sellers set prices higher and the expectation is that the negotiated price will be within the imaginary acceptable limit. I will draw on several experiences.

In the first instance, one woman who was selling land in collaboration with her old uncle put it as follows: “No! This is how it is supposed to be when selling land. The seller will come up with a price. The buyer is expected to say what he or she can afford. Then the seller comes down a little bit to test if the would be buyer would accept. If the buyer is not satisfied he or she will ask that the price should be reduced a little further.” The notion of ‘acceptable limit’ implies that there is a level beyond which the seller cannot go down even further. This is made explicit in the second account involving Njewa. I recall hearing Njewa telling the potential buyer that: “What is your view on the price? We have to hear your side of it. The price is negotiable, though we have a minimum price, at which we cannot negotiate further down.” For another parcel of land I followed closely, at the beginning the price was set at K850, 000.00. After one month the price was reduced to K750, 000.00, then later on down to K700, 000.00. The lady who bought that land three months later paid K600, 000.00.

In many transactions negotiating or reducing the price downwards is a stepwise process. Where the seller or buyer is insisting on a price that the other party feels unreasonable, the trend is that parties would agree to meet again later, that is, give each other time to reconsider the offer. This practice gives the parties ‘breathing space’ or time to seek opinions of family members or to consider other offers. For the sellers, it is in these breaks in the negotiations that the role of absent brothers, sisters, aunts, uncles or other relatives is felt. In the case of land involving Chimwemwe as described earlier, the setting of the price involved consulting other family members living in other districts at the time. The advent of the mobile phone, which has revolutionized communication in significant ways by compressing distance between people (cf. de Bruijn et al 2009 for the mobile phone in everyday life in Africa), allows for speedy decision making in situations where key decision makers live in different places separated by greater distances. The situation is different when dealing with intermediaries or estate agents.

The estate agent would in such a situation ask the buyers to look for land elsewhere, in places the buyer is not interested in, or simply dismissively advise the potential buyer to consider buying land in some remote village.

Terms of Payment

Most of the payments for land sold or bought in the peri-urban villages are by instalment.⁸⁹ The few who manage to receive payment all at once consider themselves quite lucky.

Although it is not surprising to hear the sellers, buyers, local estate agents and village headmen agreeing that most of the payments for land are in instalments, this aspect is not explicitly evident in the written sale agreements. Most sale agreements suggest that most of the payments are made in one single payment. It appears that 39 of the 53 transactions, for which I collected sale agreements, were on cash basis, while only 14 were by instalment. Based on interviews and observations, this is not a true reflection of the practices or situation. Apparently, this misrepresentation arises because in many transactions the sale agreement is prepared and signed after the final payment has been made. The amount indicated on the sale agreement is the sum of two or more payments made over a period of several months. The instalments are often recorded on sheets of papers that are sometimes discarded when the final payment has been made. Sometimes buyers default on paying instalments. Quite often such defaults have been perceived as representing the powerlessness of the sellers. Msamala complained about selling land to one businessman who delayed paying up the price in full. As he put it, "It took a long time. We had to struggle to get the money paid. He is a big businessman, but he had problems paying. He is in cross-border trade." Similar experiences were recounted by Chikho. His family waited in vain for five years for the buyer to pay up K15, 000.00.

While defaulting was very common a few years back, when prices and the demand for land were relatively low, in the present, with the rise in the demand for land, sellers cancel transactions immediately they suspect delays in paying up the balance. In the transaction involving Mbalame, repeated here with an additional layer of detail, he sold his land at K250, 000.00, and

⁸⁹ The fees that people pay for renting land, prices of building materials such as sand and bricks and also labour charges are negotiable and payable in instalments.

he received his payment in two instalments of K150, 000.00 and K100, 000.00 within a space of two weeks. As he put it:

I told the buyer that there are many people who have expressed interest to buy the land. I said; if you are serious bring the money within one week as you have promised. I even told him that if he fails I will sell it to another boss. I stressed that I have to have the money as agreed or I will sell it to another person at K300, 000.00, and then pay him back his deposit. When he noticed that I was determined to sell it to another person, he paid the balance without delay.

It would appear that there are limits to breaking the terms of payment, and this is becoming more critical as the demand for land is rising and the selling of land is eventually regarded as a kind of business. I will illustrate this point by drawing on once again the case of Mwanga, who has lived in Chikowa village for many years. Mwanga noted with surprise that he and his wife acquired the first big parcel of land in 1991 at K1, 000.00 only. Accounting for the depreciation of the currency would show that K1, 000.00 was then a big sum of money. The difference, as many of my informants mentioned, at that time selling land was not considered a form of business. Moreover, as Mwanga put it, the terms of payment in the past few years were not as difficult as they are today. He paid the deposit of K200.00 and the balance followed in trickles of K100.00 or less. He is not even certain if at all he paid the amount in full.

Some transactions involve urban buyers gaining access to land on rent. This is possible because becoming established entails forming friendship ties, for example with local transporters. One family that bought land in one village engaged one transporter from the same villager to transport building materials (bricks, sand, and quarry stone) for the building of the house from foundation level to the roofing level. In his appreciation, the transporter offered to let the family use one of his fields for free for the purpose of cultivation of crops. The land in question lies in a *dambo* and it was at one time earmarked by one community based organisation (CBO) in the village for a community based project. The owner refused to let the community have it because of concerns that it may eventually be difficult to get it back.

Paying for Land

Buyers rely on savings and rarely on gifts or loans from kinship or non-kinship networks. On the seller's part, the one who moots the idea to sell land could be considered the seller and so entitled to receive the payment. This is not always the case given that ownership of customary land tends to be shared among family members, and the definition of the family is always flexible and sometimes contested. There is no general rule. From few transactions encountered, the person receiving the money is always the one who is considered the owner of the land or more reliable and also more capable in the handling of money or affairs of others in the family.

By selling land villagers earn large sums of money, and the amounts are quite substantial, especially in those transactions where a full payment is made in outright single payment. Witnessing the money paying ceremony one is likely to be stunned by the amount of effort required to count large sums of money without the aid of money counting machines used in the banks. Counting big sums of money, for example K500, 000.00 or more takes time, and often one is lost in the course of counting. The task is rather challenging when notes with different denominators are mixed. On one occasion I witnessed the paying and counting of money for the land transaction whose price was K300, 000.00. The buyer counted the money before passing it on to the seller through the village headman, which symbolically meant submission to the authority of the village headman, who is also the principal witness. Then, the village headman passed the money on to the seller. It was then the turn of the seller to count it. The seller and his sister (matrilateral parallel cousin), who was present as witness to the transaction, counted the money more than three times each. In the fourth and last round of counting they decided to do a quick count together. Before finishing counting all the money the seller gave up by noting that *okay zakwana!* (We have the right amount). The counting ended there and the transaction was declared complete. I learnt that both the seller and his sister dropped out of school in the early years of primary schooling and so had low levels of numeracy.

The situation was different in another transaction involving land with the declared price of K200, 000.00, though the actual price was K670, 000.00. The land involved in this transaction was not bare land, given that there was already an old disused house, which had no roof. Both the seller and the

buyer arrived on the land by car, and they found the village headman and his counsellors already there waiting for their arrival. The participants sat in a file on the veranda. The village headman and two of his counsellors sat in the middle. To their left sat the seller and one of his cousins. Immediately to the right of the village headman sat the estate agent and then the buyer (a couple and their two small children). The village headman asked the seller why he summoned him on a Sunday morning. After the seller introduced the subject, the village headman turned to the buyers to ask if indeed they were ready to buy the land. After the preliminary speeches the village headman asked the seller what price he was offering the land and whether the buyers were ready with the money. Then the village headman informed the buyer and the seller that he takes 10 per cent of the price from the buyer and 10 per cent from the seller. Then the village headman asked the buyer to pay K20, 000.00, which the village headman retained for himself. After verifying the amount, the village headman asked the buyer to pay the actual price. The money passed through the village head to the seller. After counting it, the seller gave the village headman another K20, 000.00.

Payments for land are often made in cash for various reasons. The fundamental point is that land matters should commence and end on the land concerned. This is a principle based on custom, and it also applies to disputes and dispute resolution. Other forms of paying for goods and services, for instance payment by cheque or bank transfer are considered inappropriate. Also, most villagers do not have identification documents (IDs) and bank accounts. There is also a belief that such payments should be transparent, that is, the money should be paid in cash in the presence of some witnesses who must confirm the payment by signing for it. The ideal is that the witnesses should also assist with the counting of the money, and that way confirm that the correct amount has actually been made. This aspect is emphasized given that land transactions are sometimes ridden with disputes. As Juma once put it, "It is not advisable to pay for land in the absence of witness. It is not even advisable to deposit the money in the seller's bank account. It is advisable to pay cash in the presence of relatives, and if possible, in the presence of the village headman." Where payment is made in the absence of witnesses, the concern is that the seller or relatives to the seller might deny receiving the money. Questions like who witnessed the payment and where did the payment take place are always fundamental. Given that most payments are in instalments it is not common to have every

part payment taking place right on the land. Often, the ceremonial payment takes place after the last payment, which is also accompanied by confirmation of the land boundaries. The need for confirming the boundaries will be described in another chapter.

Following each part or full payment, the expectation is that those who are entitled to a share of the money would collect their portion immediately or soon after the payment has been made. Also, the wish of many sellers is to see the money and feel it before actually going into the sharing.⁹⁰ The land money is casually referred to as TEBA, a situation that suggests that experiences during TEBA might have predisposed peri-urban villagers towards accepting the selling of land as a source of ready cash income.

Conclusion

Peri-urban villagers hold the view that customary land is now a commodity. The pertinent issues explored in this chapter are, as James Ferguson drawing on Giddens (1993) writes, “How was the stage set? By whom? Why? Who are the players?” (Ferguson 1999:98). The sellers are the descendants of the original sellers, while most of the buyers are urban based business or professional workers. Other players whose role is discussed in detail later on are the village headmen (chapters 5 and 6) and the estate agents (chapter 7). The price and terms of payment for peri-urban land are often negotiable. The commodification of customary land highlights several important trajectories: the breakdown of the principle of intergeneration land transfers, the growing pressure on land in response to population growth, the urban sprawl and the speculation of land it encourages. The transactions provide opportunity for understanding other social issues and relationships such as changes in inheritance practices, vulnerability to poverty and food insecurity, changing perceptions of poverty-wealth relations among others, as they are experienced and articulated in everyday life in the peri-urban areas of Blantyre. Some of these aspects will be looked at again in the chapters that follow. In the next chapter I will turn to custom and practices. I will carry further the discussion into how the actors orient the selling and buying of land to established, though by no means fixed order oriented to basic cultural

⁹⁰ A similar point is made by Paul Grijp on Tongan squash farmers that “They wish to see it concretely, feel it, and eventually share it out” (Grijp 2004:166).

values, while also providing a link to the important features of the research setting introduced in the previous chapter.

Practices and legitimation in peri-urban land transactions

Introduction

In this chapter I will narrate everyday practices, if perceived as ways of operating, in peri-urban land transactions. As peri-urban customary land is no longer perceived as embodying use values only but also exchange values, access rights and rights to sell it are often subject to perpetual negotiation. I will pay attention to three thematic areas, namely: who is entitled to sell land, sale agreements, and the signing or legitimation fee (gift). These aspects relate to two domains of social action. The first aspect (who is entitled to sell land) is structured along norms actors refer to, use or upon which claims are made, but also represent ideal relations. In other words, it details the basic principles that have basis in acceptable customary values. The other two related to the actions and practices some or all the actors perform or are expected to perform from time to time in any given land transactions. These fall into the category of social practices. This chapter shows that sometimes social practices are not always structured in terms of the normative expectations; even though behind every social practice involved in peri-urban land transactions there is a structure or set of principles by which particular practices can be explained, legitimated and sometimes defended and predetermined. For some reasons the actors appear to be followers of rules while also operating as makers of choices at other points. Eventually, practical considerations appear to be the reason for or cause of action. Yet, looking at it through the practices it becomes evident that there are schemes of meaning-rules and normative expectations. In practice a 'gift' follows or is contingent on the signing of the written sale agreement by the customary holder of the traditional rank of village headman. The question is to what degree is this form of reciprocity sanctioned by custom. The discourse on the signing fee, its material and symbolic value in particular, will be followed by an overview of the process of applying for lease by which customary rights in land are extinguished once leasing such land converts it from customary to private land. Noteworthy is the fact that 'customary land' exists as a legal category side by side with public land and private land. This normativity in

the legal framework becomes, of course, visible in the practices of the actors. Here a gift takes two different forms: a gift to a traditional leader of significant rank and extra-legal payment to state officials. I will focus on the principles and practices, but also the contradictions; and in doing so proceed to demonstrate at a certain level of abstraction how custom serves as a means of inclusion, exclusion and of legitimation in peri-urban land transactions.

Group membership and peri-urban land

Even though land is considered a commodity, the customary notions about descent, communal ownership and matrilineal inheritance have not disappeared from the consciousness of many peri-urban villagers. Also, one of the important parameters in peri-urban land transactions is the disproportionate predominance of young men as land sellers; though it might not be correct to say that young women, older men and older women are not involved. The previous chapter has shown this relationship clearly. However, the young men happen to be those who meet membership norms, that is, the standards for including or excluding any person within a group or social position (cf. Cancian 1975:3) on the basis of descent. The young men are sometimes prominent as fronts. Women (mothers, sisters, aunts or grandmothers) are sometimes in the background, but in fact the force behind a decision to sale land and oftentimes principal price setters. Hence, even where women might be invisible their views on land transactions are not virtually muted.

There are also some transactions in which women have generally and visibly been in charge of the process. The first transaction encountered relates to the old woman I was introduced to by one of her grandsons. In another transaction the young woman who coincidentally divorced her husband two months into my fieldwork and got remarried two months before the end of my fieldwork also sold land located behind her house just a month before getting remarried to the man who contributed to the collapse of her previous marriage. Several other transactions involving single and divorced women and widows reselling land acquired jointly with the deceased husband have been described in the previous chapter. The position of married men in uxorilocal residence (*akamvini*) or married women in virilocal residence (*akamwani*) and children of men in patrilocal residence is that of

strangers. They have little say, if any, over the selling of customary land that does not belong to descent groups (*mtundu*) they are considered part of.

The notion group usually refers to plurality of individuals bounded by some principles of recruitment and by a set of membership rights and obligations (Holy and Stuchlik 1983). There is considerable overlap with norms since membership rights and duties are norms.⁹¹ The exclusion of strangers, *akamwini* and *akamwani* is based on values and norms acquired and enforced in everyday life in the process of socialization (cf. Nasu 1999 on socialization and social order). Yet, standards are changing and there are also layers of rights that need critical examination. I will add details by turning to the ownership of land, kinship and quasi-kinship relations, the position of strangers, those not related at all to the original settlers and those related by bonds of marriage.

Land, Kinship and Quasi-kinship Relations

The decision to sell land is quite often a contested one. Many transactions are preceded by consultations among family members who might have interest in the land, given that under customary tenure the ownership of land is assumed to be shared among members of a wider family group. The composition and sometimes the size of the family is often fluid and imprecise as it may refer to the nuclear family, the extended family and the clan. Yet, individuals often speak of owning land in definite terms, but further analysis shows that expressions alluding to individual ownership are more often qualified by kinship terms and relations, given that the land is inherited by virtue of membership in the matrilineal based kin group.⁹² In many situations some of the rights in the land are direct, while others are implied. This is the case even in situations where individual family members have recognized interests to specific parcels. Often, the decision to sale land is presented as an individual decision, which might be approved or countered by claims of other members within the nuclear family. The extended family

⁹¹ Much anthropological work involves analysis of social norms (cf. Ensminger and Knight 1997). Norms are shared conceptions of appropriate or expected action (Cancian 1975:1).

⁹² This relationship has also been amply exemplified in the analysis of ownership of land among the patrilineal Nuer, where Howell (1970:179) observed that there is no concept of the ownership of land by an individual. As Maini (1967) also put it earlier on, the relation of an individual to land is complex especially when his or her rights in the land co-exist with those of the group.

and the village as a whole might not have any significant influence on that. I will illustrate these dimensions by following some transactions that took place midway my fieldwork.

Two young men purported to be brothers had different opinions about their sister selling land located close to their homestead. One of the two young men, here named Mbewe, was against the idea but he observed that he could not stop his sister from going ahead with the transaction because that land belonged to her in the first instance, while the other, by the name of Chinangwa, supported the idea without questions. Talking to Chinangwa he pointed out that his wish was that “The person who is buying the land will come to live with us and she will be our new relative. May be she will buy us coffins when we die”. From this account the selling of land presupposes establishment of new kinship ties, though sometimes at the expense of existing relationships. This aspect becomes more evident in another transaction where the woman selling the land referred to the one buying land from her as ‘her would be child’ who would take good care of her later. The notion of quasi-kin is evident in the writings of Max Gluckman among the Lozi of Zambia where he suggests that “trading relations are converted into quasi-kinship relations” that entail obligations of hospitality and help (Gluckman 1965: 14). In other words, as James Ferguson also writes among return migrants from the Copperbelt mines in Zambia, buying land is not simply obtaining land but also neighbours and kin among those selling the land with whom one would reside and perhaps cooperate socially and sometimes economically (Ferguson 1999:131-2). In the peri-urban Blantyre cooperation is evident in the social arena, for example, during funerals. But the decision to sell land is complexly related to transformations in perceptions of kinship ties as the conversation I had with Mbewe suggests.

Mbewe: I have not seen you recently.

I: I have not seen you either ever since you sold the land

Mbewe: Do you think the selling of that land is something that concerns me? No! I am not concerned.

I: Why?

Mbewe: Everyone in our family has got his or her own land. What my sister has done is to sell her own land, and the money is her own. It is meant to assist her pay up her expenses. I have my own land. Next time I sell my land I will not share the money with anyone.

I: What are you doing now?

Mbewe: I have started making bricks.

Despite claiming that the transaction was not in his best interest and also initially denying having a share of the money, later on Mbewe admitted receiving K7, 000.00 from his sister as his share of the land money. Part of his share is what he used to rent land on which he was to make bricks later on that year. Apparently, Mbewe had to rent land for brick making from his village headman even though he also claims to have adequate land. His explanation is that brick making takes place close to water sources, and so he has to rent land near one of the streams. Land close to that same stream is used by the family of the village headman for *dimba* cultivation.

Mbewe's suggestion that he could do nothing to stop his sister from selling the land covered up the emerging underlying logic. Mbewe and the land seller are matrilineal parallel cousins. In this sense Mbewe could not control the selling of her land due to the narrowing of lineages. Even if descent from closer ancestors is given recognition in defining ownership rights the generation depth and span of effective matrilineages is narrowing (cf. Holy 1986 for Toka; Mitchell 1956:157 for the Yao). As O'Laughlin (1995) also suggests, lineages tend to be shallow, each new family is potentially a new lineage segment, and long ancestral lines are identified with political power. In general terms effective decision making about whether to sell land or not takes place within the confines of the narrowly defined family unit rather than the extended family. Although Mbewe might have rights in the land that his mother's sister's daughter is selling, and this is reflected in his entitlement to a share of the money received for it, he could not claim or attempt to control its disposal. The emergence of the small or nuclear family as the key kinship group with some definite rights over land accounts for the proliferation of selling land and also the tenuous land relations of strangers who acquired land by begging. The emerging practice is that those without children or grandchildren of their own do not hesitate to sell excess, and if a kin has limited or no rights, what more with a non-kin.

The Position of Strangers

Talking about strangers who acquire land through begging or gifting, villagers suggest that strangers' rights to land are limited to temporary occupation and cultivation rights regardless of the length of period of usage. On one occasion I met three women who were doing *ganyu* involving drawing water for a building project. I asked them if they have sold land before and if they have land to sell. Two of them claimed having sold some land some time back, but the third woman claimed having not done so because she does not have enough land. Later on a security guard at the construction site told me that the woman who claimed not having sold any land before could not sell land in the village because she and her family are strangers in that village. Her parents acquired the land in the village by begging.

The rights of strangers to land are insecure now because of the monetary and to be more precise the exchange value customary land has acquired of late, which reflects to some degree the scarcity value of land. Strangers seeking to leave the village and settle elsewhere or who might for other reasons wish to sell part or all land acquired by begging are often asked to return the land to the family that provided it or to the village headman in those cases the land was obtained directly from the family of the village headman. As village headman Mwera observed:

This is how it is done. They [strangers] cannot be allowed to sell land because it does not belong to their descent group. The moment the recipient decides to dispose it off, we would often ask them that the land should revert to those who provided it because the mere wish to sell land obtained by begging implies that they have no interest in retaining it. When the matter is brought to my attention I take the side of the family that provided the land. I ask them [strangers] that if they would like to relocate they should leave the land and other people will probably come over and use it. Even if they have built houses on the land, the arrangement remains the same. Otherwise, the alternative is to reach an understanding that a certain portion of the money would go to the family that initially granted the land, while they could retain the money for the house(s). The agreement may entail splitting or sharing the money equally.

The decision to share the proceeds equally is not an easy one, but it is taken when the parties to the land and possibly with the intervention of the village headman realize that the satisfactory decision is one which does not comply with the norm of returning the land. One of the incidents that typify to some degree this situation is one of the uncompleted houses in Jekete village, which shows that land could be allocated to others who wish to build new houses closer to the main road and electrical power lines but such an offer never meant alienation of the land.

Close to two decades ago a man employed by the state and was then working at the Chileka airport obtained land from his friend in Jekete village by way of begging. Then, the recipient's wish was to build a residential house and so he was allocated land along the tarmac road. He started building his house, probably one of the most modern houses under construction at the time in the area. He used burnt bricks and concrete to erect the walls up to the roofing level. Later, he lost his job and so he abandoned the house project. After some time he decided to sell the house, ostensibly because he could not manage to continue with the construction. For over a decade now, the person who provided the land has been blocking that decision. At the present the vacant land around the house is used to grow maize by the man who initially provided the land. The uncompleted house is slowly succumbing to elements of weather or falling off bit by bit. The common understanding is that both parties are entitled to some share of the proceeds, but they cannot agree on each party's share. At one point the owner of the land asked the owner of the house to pull it down and remove his bricks off the land.

The expectation is that the matter will probably be resolved either by the heirs of the two or one of the two and the inheritors of the other. This account underscores that strangers can sell land on certain conditions, other than economic use or occupation only.⁹³

As economic use or occupation of land are partial aspects of what ownership means young men are increasingly becoming impatient to learn that certain fields that once belonged to their descent and kin group are used by unrelated families of strangers. In other words strangers have to accept inferior position to *mbadwa* who could claim uncontested rights to any piece

⁹³ This account suggests as Okoth-Ogendo (1989:8) observed "a clear separation in African thought and law between the *solum* and any manifestation, such as crops, trees and buildings which symbolizes human interaction with it."

of customary land in their respective villages. This position is logically linked to what Kandawire described some three decades ago about communities in Chingale area of Malawi and in relation to inequality in the way people are traditionally related to the land. As he put it, “A man who lives in an area which is not traditionally claimed by his own clan has less rights in land than one who does live on land traditionally claimed by his clan” (Kandawire 1980:142). Similarly Parker Shipton observed among the Luo of Kenya that under custom an individual or family enjoy full social status, and therefore full land rights, only if living among relatives (Shipton 1984: 119). In peri-urban Blantyre *mbadwa* are using custom to claim land used by strangers and sometimes proceed to sell it. The trend is in some situations fuelled by village headmen as custodians of customs, partly because the village headmen derive benefits from the process of selling land and through that improve their own material conditions. To some degree the monetization of land relations exacerbates insecurities and anxieties of *mbadwa* and *obwera* alike, bringing about even greater obsession with the question of belonging (cf. Nyamnjoh (2006) on paradoxes of citizenship and belonging in under globalization where xenophobia and intolerance find space). Reversionary claims whose application tends to be selective reinforce perpetual land ownership by *mbadwa* by denying that strangers are in a relation of ownership to land. Yet the notion of strangers, at least in some of the peri-urban villages of Blantyre, is rather imprecise given that uncontested claims to farming land in some villages is sometimes not subject to residence in that village or allegiance to the headman of that village.⁹⁴

In the past membership to any village did not correspond neatly to territory within which the villagers could exercise cultivation rights. Some of the families in Jekete village have most of their gardens in Mphwere village. This applies to the family of the village headman. Those owning land in other villages other than their own village are sometimes not competent enough to explain how the situation could have evolved. That is, how the two principles of kinship-based and locality-based access to land operate (cf. Ellen 1977; Shipton 1994). Several peri-urban villagers enjoying such rights described it to me that they wouldn’t know what the situation was like when their ancestors came to settle in the area, or how they went about partitioning the

⁹⁴ See van Velsen (1964) for the Tonga of Lake Malawi. Land could also be acquired as *chisoka* compensation by husband of one’s *mbumba* (uterine kinswoman) at her death or begging (*kupempha mari*)

land into villages or family land holdings. Some would simply suggest, even without corroborating evidence, that probably they are related to the original settlers or families in the other villages where they have fields without being resident members of those villages. Sometimes some would ask uncritically their village headman to witness or give consent to a land transaction involving the selling of land that is geographically within the territory of another or different village headman. In this discourse the position of married men in uxorilocal and that of women in virilocal residence is rather different.

The Position of Husbands (*akamwini*) and Wives (*akamwani*)

On one occasion I accompanied a person seeking to buy land to another village northeast of the airport. As we left the village I asked the person who showed us the way about another man aged about 35 years who appeared to be one of the members of the family selling the land but did not utter a single word during the discussions. The reply was that as *mkamwini* he had no place in the discussions over the selling of land. As our guide put it, “What could he say about the land? Does he know anything about our family land? That man has come to the village in the last few weeks. He was living in the city with his wife where he had a job. He has come back after losing his job.” The *akamwini* and also *akamwani* might enjoy use rights only. When it comes to selling land they might be informed but not involved. As Njewa also put it, while introducing me to the land he was about to sell, though the current users happened to be his sister and her husband: “Ah! He cannot complain; he knows that he is *mkamwini*. When discussing these matters we tell all the *akamwini* to walk out or keep some social distance because the selling of land is normally a family matter. We tell the *akamwini* that you are billy goats. Would you give us space to discuss matters that are of interest to family members only? Then, while the *akamwini* are out we discuss what to do. When everything is decided, they [*akamwini*] may hear it from their wives.” These sentiments are corroborated by the experiences with another *mkamwini* by the name of Sambi.

Sambi was entrusted to look after a piece of land acquired by buying by his brother in-law (wife’s brother).⁹⁵ After taking me around the land Sambi

⁹⁵ For purchased land the owner can decide who to entrust the land. This instance shows, as Angelique Haugerud suggests, “how descent group control over land diminishes when an

observed that the land in question is not ancestral land (*malo a mizimu*). Then he added that *malo a mizimu a mavuta* (ancestral land is difficult to dispose). The seller has to share the money with everybody who has claims over that land. Yet he pointed that although the land in question is *malo ogula* (purchased land) or “personally acquired” (cf. Colombijn 1992), he does not expect any benefit given that he is *mkamwini*. As he put it: “I would have none of the money not even K1.00. If I would everybody in the family would be angry, even my own children. They will say – how can you have a share of this money, does it concern you? Don’t you have your own land in your village of birth, or all your relatives died that you want to make yourself part of us?” The practice of selling peri-urban land makes the position of *akamwini* more glaring as that of strangers, which is the corollary of the matrilineal puzzle. It highlights the precarious position and dependency of landless men on landed women in matrilineal villages.⁹⁶

These accounts suggest, as Karla Poewe and Peter Lovell write, that kinship and marriage are part of an ideological dimension of social reality, though descent is the ideology that defines norms in land transactions (Poewe and Lovell 1980:73). I would illustrate further the position of *akamwini* by drawing on two transactions illustrating what the villagers sometimes describe as ‘throwing’ away unproductive land. This is usually

individual acquires land using his own resources rather than those of the descent group” (Haugerud 1989:80).

⁹⁶ Lampert-Stokes summarized the matrilineal situation as follows: “The matriarchal system as practiced by the Yao and other tribes in the south of Malawi, - upon marriage, the man goes to his wife’s village and becomes the user and only the user of the land, having been allotted it by the village headman or chief. The man, however, never becomes a real part of the village, although his children remain in the village and become a part of it; the man must, if his wife dies before him, leave his children, his house and perhaps the fruit of years of toil, and return to his mother’s village where he may be a stranger. This also applies if the marriage is dissolved” Lampert-Stokes 1970: 61). Similarly Kambewa et al (n.d.) observed recently in a rural district of Phalombe: “Some men marry several wives in their lives and they live in several villages as they follow the wives. In their comments the men said they were like short trousers that are worn out as they walk up and down (*mvamuna ndi kabudula amathera moyenda*). ...The researchers asked questions but found that the men turned to the women to answer. Asked why they were not answering themselves, the men said they could not answer because the questions were about land, which was not theirs. They explained that they came to the village to marry the women and give them children, and that they just cultivated the land belonging to their wives (*Ife tinagobwera kudzakwata azimayina ndipo timangolima nawo basi*). Kambewa, D, Peters, P. and Berge, E. (n.d) “Towards Tenure Security in Customary Land in Malawi: What do we know about matrilineal society?” <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/6004/Kambewa%20IASC2008.pdf?sequence=1>

land that is heavily leached, stony and less productive. Such parcels of land are often left idle or are cultivated with disappointing output. In the past when land was not scarce such parcels of land were abandoned or left fallow, but today due to land and population pressure such parcels are continuously cultivated. For any meaningful yield such parcels would require intensive use of purchased fertilizers. Sometimes use of fertilizers does not lead to expected increases in yield. I came across several situations related to this aspect but I will comment on two situations where the *mkamwini* cultivating the land was excluded in the process of 'throwing' it away.

The first transaction relates to a young man known here as Mbalame, though it relates to the land in his wife's village. Mbalame married while in primary school. The marriage started as an early adolescent love affair. His present wife, then the girlfriend, became pregnant and so her parents dropped her at his home. That incident became the beginning of the family that has produced three children, all daughters. Up to the present, Mbalame lives with his wife and their three daughters in his matrilineal village. Although they live in Mbalame's matrilineal village, where they have land for a garden and a house, they also have another piece of land in the village of his wife, which they use to grow different crops other than maize. Mbalame highlighted that the garden they own now in his wife's village is a 'new' field acquired in exchange for the old field. The old field was big but infertile. Despite 'good' farming practices, including early land preparation, planting with the first rains, weeding and fertilizer application, the yield was always low and insignificant. Switching from local to hybrid varieties of maize did not lead to the expected increases in the yield. At one point an uncle to Mbalame's wife decided to sell one of the fields he had, a field which everyone in the family of Mbalame's wife agreed was small but fertile. Mbalame's wife requested her uncle to swap the fields. The fields were swapped, but Mbalame had no visible or direct role in this transaction. Then, the old field was sold at K350, 000.00. Apart from receiving the new field, which is considered relatively fertile and good for food production purposes, Mbalame's wife received K20, 000.00 from her uncle as her portion of the money received after selling her old field.

The second transactions involved two women aged between 50 and 60. The two are siblings. They have gardens in the section of the village that is heavily leached. On one part of the field the soils are reddish brown and stony, and on the other are sandy loam. Like many of the smallholder

farmers in this area the two women and their husbands and children grow maize and other crops, including ground nuts, beans, millet and some sorghum. On the sandy loam soil the crops do very well, while on the part of the gardens with reddish brown and rocky soils, no crop does well other than groundnuts. They decided to leave this part of the garden fallow for some years after which they reopened it to cultivation, but they were disappointed that the yield was as poor as before. At this point they decided to cooperate by pulling together and sell the poorer parts of their gardens to people looking for land on which to build houses. When I visited their home accompanied by Chikho I met the husband of the older of the two women. He informed me that he has heard about the plan to sell part of their land, but as *mkamwini* he is not part of the process. After waiting for some 30 minutes his wife arrived. After the exchange of greetings and introductions she decided to call her sister and her own son. As she put it, in the absence of her brother, her son has final say on the price of the land.⁹⁷ Several attempts to sale the land have failed because for the moment no potential buyer seems to be interested. Most potential buyers who have inspected the land would prefer to buy the whole garden, including the part the current owners find productive for their needs. This account relates in part to what Parker Shipton observed with respect to the value of land that land on its own cannot produce anything. Rather, there is need for water, labour, capital, or all the three put together (Shipton 1994). Yet, peri-urban villagers tend to invest their land with agency in their use of phrases such as ‘the land gives us’ or ‘the land no longer gives as it used to yield’ (see also Fischer and Hendrickson 2003 for similar insights).

The position of affinal women living with their husbands’ family, that is virilocally is not different from that of affinal men living with their wives’ family uxorilocally. Chinangwa who sold land in 2008 noted that his wife who lives with him in his matrilineal village (*chitengwa* or *kuwoloka*) had no say in the land matter because she does not belong to the land owning kin-group. Such women have fewer rights over the land. As William Grigsby writes, “A woman’s access to lineage land through her husband is likely to be temporary, non-transferable, and subject to restrictions. ... In the face of land scarcity, affinal women are likely to be the first to suffer, either by losing access to land altogether, or being relegated to the most unproductive

⁹⁷ This incident would also imply that in matrilineal systems young men inherit the mother’s brother’s land (cf. Kaitilla 1995).

parcels” (Grigsby 1996:93). In peri-urban Blantyre their children might claim land depending on the circumstances of their father. In principle, the matrilineal system of inheritance suggests that a person can inherit land from her mother or his mother’s brother, and so an inheritance of customary land from one’s father is an exceptional occurrence. It happens if the father is the most senior and respected member of his family or the village headman. Such children, on their death, are likely to be buried in their father’s village.⁹⁸ Yet, even in this case their position is tenuous, equivalent to that of strangers (*obwera*) who can receive land through gifting, but rights to sell the land are restricted. They cannot sell the land or in the cases where they are allowed to, selling is conditional as described already in relation to strangers. A certain negotiated portion of the money is expected to go the relatives of their father, who are in essence the real heirs to the land. For instance, one young man now living in Lilongwe arrived in Mphwere village to sell land in his deceased father’s village. One of his cousins observed that he was under obligation to leave part of the money with his aunts (father’s sisters) and uncles (father’s brothers) as a token of his gratitude to them, given that allowing him to partake in the selling of land that does not belong to his mother’s lineage is an act of generosity that should not be taken for granted. Sharing the land money with the father’s kin is both an obligation and a form of ‘thank you’. In a neighbouring village, a young man now based in Blantyre city but born to a mother from Mphwere village and a father from Mwera village had to pay money to his father’s relatives in order to be allowed to build a private school on land belonging to his father’s lineage.

In families comprising of male children only, women married to such men and who live virilocally have better chances of having their children inherit the land from their father. Lamba informed me that his immediate family comprises of himself, his younger brother and a sister. He had another older sister who passed away some years ago, but is survived by the husband and two daughters who are now settled in another district. Lamba’s younger

⁹⁸ The norm is that a dead person is buried in a graveyard associated with his or her mother’s lineage. Sometimes burial in the father’s village takes place when the family cannot afford to meet transport costs. Yet, in one of the deaths that occurred during my fieldwork in Jekete Village, involving a small child, the relations of the mother decided that burial should take place in the father’s village for reasons other than transport costs. The warden of the mother’s sorority observed that they would not take the body because their daughter (mother to the dead child) and her husband (father to the dead child) were living in harmony. If it were not, they would have ordered burial in their own (mother’s) village.

brother lives with his wife a few kilometres from their home village. Lamba lives at his matrilineal home with his wife and their children. His younger sister has two sons. Given this situation Lamba's wife is the most senior woman living in his family home. With a big smile on his face Lamba, referring to his wife, informed me that: "Her friends advise her to have a firm hold on the family since she is the only mature woman living here. My younger sister has two sons delivered by caesarean section, and she has since been advised by doctors that she should not give birth to more children."

Although the notions that only those descended along the mother-daughter line can inherit land is true, and that only descendants of original settlers in the same order can sale land is also true, these notions are in fact true and valid only under specific conditions and circumstances. This means that social reality rests on examining actors' behaviour in its context to unveil the taken-for-granted, but not explicitly stated practices (cf. Holy and Stuchlik 1983: 80 for inheritance among the Toka of Zambia). The selling of land provides space for appreciating the strength and resilience of certain customs or norms, some of which apply in the preparation of sale agreements.

Sale Agreements

Most land transactions involve written sale agreements. As Fanuel, one of the local estate agents put it, "We do not sell land without having written sale agreements (*kalata yamalo*). This is true even when buying land from one's own relative or the village headman." From this angle sale agreements validate the transfer of ownership and so legitimize the act. Having the written sale agreement does not stop the actors from claiming that the transactions are based on trust. Trust is idealized as part of national consciousness. As one urban estate agent also put it, "We Malawians operate on trust." Trust is the assumption and predictability that others will act in a particular way, usually in cooperative rather than competitive manner (cf. Johnson and Johnson 2005). As Johnson and Johnson (2005) also observed, in market exchange trust rests on the credibility of institutions governing the exchange relations, for example perfect competition, supply and demand trends, predictability and impersonal self-regulation. However, when the exchange environment is not highly institutionalized, or when information is monopolized by certain groups, trust is constructed on personalized

relationships, at least through knowledge of other's personality, family, history, church, and so on (cf. Narotzky 1997; Shipton 2007). Trust is reinforced but not replaced by written sale agreements. For this reason the use of sale agreements leads to some degree or first level of "informal formalization" (cf. Lentz 2007:52). The other level is the informalization of formal procedures of leasing land as described later on.

Various studies of land transactions in Africa and the Pacific islands suggest that the use of written sale agreements represent new means of transferring land, giving a semblance of the replacement of the mechanisms of 'older custom' (Hebo 2007 for Oromia, Ethiopia; Ubink (2006) for Accra, Ghana; Ward 2000 for the Pacific). Lavigne-Delville (2003:95) as cited in Peters (2007) has shown that in Ivory Coast, Burkina Faso, Benin, Rwanda, and the Comoros, the agreements are particularly used in transactions considered unusual and illegitimate. Others have questioned the validity of the 'pieces of paper' as entirely unclear (Lund 1999 cited in Peters 2007) though they also note that such papers suggest the existence of some rights. As evident in the work of Arko-Adjei et al (2009) in the context of Ghana, a chief issues 'allocation notes', which serves as evidence of allocation of land and payment for it. The use of written sale agreements in the peri-urban villages of Blantyre resonate the practices in other parts of Africa, and in my view the purpose of written sale agreements is not vague as portrayed in some of these studies. I will illustrate this position by examining the preparation and structure of sale agreements, the involvement of witnesses, the confidentiality, symbolism and validity of the sale agreements, which draw on customary and state procedures at some level. These aspects make the preparation and use of sale agreements relevant and meaningful in context.

Preparation and Meaning of Sale Agreements

Sale agreements are often prepared by the buyer and rarely by the seller or the estate agent. For the sale agreements prepared from the perspective of the seller the opening statement would read: "I XXXXXXXX have sold land to YYYYYYYY (figure 5.1, 5.2); while those prepared from the buyer's perspective open with the phrase: "I XXXXXXXX have bought land from YYYYYYYY. In the sale agreements prepared by estate agents or lawyers the seller is known as the "Vendor", while the buyer is "Purchaser". The

intention is to convey the nature and spirit of the transaction as explicit as possible. Most of the sale agreements include some heading like: "Sale Agreement", "Agreement Form", "Agreement to Sell and Buy Land", "Sale of Plot", "I Have Bought Land", "Letter Confirming the Buying of Land", "Land Purchase Agreement", "Sale of Land", "Payment of XXXXXXXX for Purchase of Land at YYYYYYYY Village", "Buying Land", "Transfer of Land Ownership", "Acknowledgement of Receipt of Purchase Price", just to mention some. These headings imply transfer of land in perpetuity, which is also emphasized in some sale agreements by inclusion of the clauses such as: "From this day no one should bother the buyer"; "I confirm that there will be no change or dispute"; and "Having sold the land the ownership transfers to the buyer". In some transactions the alienation of the land in perpetuity is underscored by having two documents, one about the sale itself and the other the declaration by the seller and the village headman that ownership is transferred in perpetuity.

The phrase excluding any future claims appear to be important given that rights in customary land tend to be diffused and contested. That selling land represents irreversible transformation in the way peri-urban villagers have held on to land under custom is reflected in what village headman Mphwere once observed during interview that: "In the past when land was not scarce, strangers could come to a village and ask for land or beg for a place to build a hut, where they lived while doing *ganyu* or working elsewhere. Today this arrangement has been replaced by the practice of 'rent' for temporary use and 'sale' for permanent use." Villagers in the peri-urban Blantyre recognize that selling land is not just irreversible, it also represents transformation in people-land relations that necessitate the use of written sale agreements.

Examining some fifty three sale agreements for different transactions in different peri-urban villages for the period from 2002 to 2010 it appears that there is no uniformity in the wording of the sale agreements. Some emphasize the aspect of the buyer paying for the land, while others emphasize the aspect of the seller transferring ownership of the land to the buyer. There is no attempt to standardize the sale agreement except in Mwera village where the village headman has introduced the sale agreement form that all the people selling or buying land in this village are now required to use. The sellers and buyers are required to provide full particulars other than just their name and postal address. These particulars are the name of

their home village, the name of the chief and district of origin.⁹⁹ They are also required to provide telephone or mobile phone numbers. A further aspect is a brief description of the land in terms of its location.

For some time the sellers have been identifying themselves on sale agreements by the name of the village, the name of chief and the name of the district, while land buyers have over time used different ways of identifying themselves. From the 53 sale agreements, it appears that 6 buyers used the name of the district of origin only, 13 buyers, like the sellers, provided the name of their village of origin, the name of chief and district of origin. The other 13 provided postal address, and most of these happened to be addresses in Blantyre city. One of the buyers included a mobile number only. It needs mentioning that in several other sale agreements the mobile phone numbers are provided in addition to the postal address, and the names of the village, the chief and the district. Most of the buyers, 20 in total did not provide any identifiable particulars. It appears that for the buyers, although the name of the district, name of village or chief, postal address and also mobile number are important, there has been less enthusiasm to include any such particulars. In relation to the sale agreements showing the names of the village head, chief and district of origin of the buyer, most of these sale agreements, 9 out of 13, pertain to transactions completed recently in Mwera village. For this reason it reflects the use of the standard sale agreement form introduced recently.

⁹⁹ During Dr Banda's rule this information was often required for the political party membership card.

SALE OF LAND

I SAIBI ~~XXXXXXXXXX~~ OF ~~CHWA~~ VILLAGE T/A
MACHINTJIRI, BLANTYRE HAVE SOLD A PIECE OF
LAND/PLOT TO MR EDWARD ~~XXXXX~~ OF BOX
~~XXXXX~~ BLANTYRE ON 14TH FEBRUARY, 2002 AT
K45,000.00 (FORTY FIVE THOUSAND KWACHA ONLY)

OWNER: SAIBI ~~XXXXXXXXXX~~: [Signature]

WITNESS: FRANK ~~XXXXXXXXXX~~: [Signature]

BUYER: EDWARD ~~XXXXX~~: [Signature]

WITNESS: LEONARD NTAVALA [Signature]
WITNESS: PATRICK KANDANDA [Signature]

VILLAGE HEADMAN: [Signature]

Figure 5.1 Handwritten sale agreement in English without a date stamp

AGREEMENT FORM 10/11/2006

INE ISAAC ~~TAMU~~ LERO PA 10th NOVEMBER 2006

NBAGULISA KIOCHOKERA MUDZI MWA ~~KASAKA~~

BOMA LA BLANTYRE, T.A MACHINJIRI LERO NBAGULISA MALO KWA FORTUNE ~~KASAKA~~ KIOCHOKERA KU MUDZI WA ELIA VILLAGE T.A ~~KASAKA~~

DEBZA PA MTENGO WA K100,000 (ONE HUNDRED THOUSAND KWACHA.) PAID K70,000 BALANCE K30,000

WOGULISA: Isaac ~~[Signature]~~

MBONI: Saidi ~~[Signature]~~

WOGULA: Fortune ~~[Signature]~~

MBONI: Evelyn ~~[Signature]~~

AmFumu!

V. HEADMAN
SENIOR T/A KAPENI
BLANTYRE
DATE: ~~[Signature]~~

Figure 5.2 Handwritten sale agreement with the heading in English (**Agreement Form**) but the details are in the Chichewa language

TRANSFER OF LAND OWNERSHIP

I, Recho James of ~~Malunga~~ Village, Traditional Authority ~~Machinjira~~ has received K 280 000.00 payment of the piece of land bought by Mr. & Mrs. ~~S. M. M.~~ From this day 3rd January 2009 the ownership of this plot of land is transferred to the ~~S. M. M.~~'s.

Sign: LESTHO JAMES Date: 3 JANUARY 2009

~~M. M.~~ Village
Traditional Authority ~~Machinjira~~
Blantyre

Paid by: P. S. M. Date: 03/01/09

~~S. M. M.~~ Sec. School
Private Bag 42
Blantyre.

Witness: B. P. M. Date: 03 January 2009
V. H. M.
T/A Machinjira
Blantyre

Witness: M. R. D. M. Date: 03 January

V.H. M. M.
T/A Machinjira
BLANTYRE
DATE 03-01-09

Figure 5.3 Sale agreement titled “Transfer of Land Ownership”

Sale Agreement.
 Ine Dickson ~~_____~~ wochokela
 mudzi wa ~~_____~~ Ta machinjiri
 Blantyre Lero pa 15th September
 2009 ndagwitsa malo
 kwa Ruth ~~_____~~ wochokela
 Boma la Nkhota-Koto pa
 mtengo wa K230,000.00
 Paid - K100,000
 Balance K130,000

Wogwitsa malo ~~_____~~ Edison
 mboni ~~_____~~ Edison
 Wogula malo - ~~_____~~
 Mboni - O. Marrega Mbeu
 Amfumu Sign

TA MACHINJIRI BLANTYRE
 DATE 03-10-09
 TA MACHINJIRI BLANTYRE
 DATE

Figure 5.4 Handwritten sale agreement in Chichewa language printed on a school notebook paper

~~XXXX~~ & COMPANY
 Legal Practitioners, Conveyancers
 Debt Collectors, Commissioners for Oaths
 Notaries Public

Plot BW
 Sunnyside
 P.O. Box
 Blantyre
 Malawi
 Cell: 08 357 202/09 235 993
 Fax: 01 633 056/01 636 443

Chancellor LLB (Hons) Mw
~~XXXX~~ Mhango (Legal Consultant)

Contact Person
 MR ~~XXXX~~

KALATA YA UMBONI WOGULITSANA MALO

IFE AMENE TALEMBA NDI KUSAYINILA PAPEPALA PANO TIKUCHITIRA
 UMBONTI BAMBO DR KHUMBO KALUA OMWE AGULA MALO KWA MAI ~~XXXX~~
 WA A M'MUDZI MWA ~~XXXX~~ T/A MACHINJIRI
 MALOWO AKUPEZEKA PAFUPI NDI CHALICHI CHA A ROMA
 M'MUDZI MWA MFUMU ~~XXXX~~ T/A MACHINJIRI
 MTENGO WA MALOWO NDI K150.000 NDIPO NDALAMA ZAPELEKEDWA
 ZONSE

DZINA LA MWINI MALO Mrs. Joyce Mhango
 SIGNATURE _____

DZINA LA MBONI YA MWINI MALO XXXXXXXXXXXXXXXXXXXX
 SIGNATURE _____

DZINA LA OGULA MALO Dr. Khumbo Kalua
 SIGNATURE _____

DZINA LA MBONI YA OGULA MALO XXXXXXXXXXXXXXXXXXXX
 SIGNATURE _____

DZINA LA MFUMU YA M'MUDZIMO APRONI
 SIGNATURE _____

DZINA LA MBONI YA MFUMU YA M'MUDZIMO XXXXXXXXXXXXXXXXXXXX
 SIGNATURE _____

TSIKU/DATE LOGULITSILANA MALO 3/11/2005

STAMP/CHIDIMBO YA A MFUMU A M'MUDZI XXXXXXXXXXXXXXXXXXXX

Figure 5.5 Sale agreement dated 3 November 2005, prepared by a law firm. The heading is in Chichewa language: *Kalata Ya Umboni Wogulitsana Malo* (Documentary Evidence on the Buying and Selling of Land)

Some of the sale agreements are printed, suggesting that the one who prepared it has access to computers, while others are hand written. Out of the 53 sale agreements, 42 are computer printed while only 11 are handwritten. Most sale agreements are written in the Chichewa language. Some of these sale agreements are also on low quality notebook paper. The sale agreements prepared by the buyers are brief or concise, while those prepared by urban estate agents and lawyers tend to be longer and the language used is too technical for illiterate or semi-literate villagers to follow. Of the 53 sale agreements collected, three were prepared by legal practitioners based in Blantyre city. One of these agreements was prepared by the legal firm established by the onetime minister of lands and housing, who was also Malawi's minister of justice and constitutional affairs at another point. The involvement of lawyers in the drawing of sale agreements has also been observed in other countries and cities such as Kampala (Uganda) and Enugu (Nigeria) (Rakodi (2007).

In the peri-urban villages of Blantyre the village headmen observed that there is no difference between printed or hand written agreements. Both are considered valid evidence of the transactions. One village headman observed that printed sale agreements are easy to keep than the handwritten ones, while those handwritten on low quality notebook paper are unlikely to last long in good condition. The same is often said about the hiring of lawyers, even though some buyers hire lawyers as a weapon to scare the villagers with legal suits in case there are disagreements or disputes.

Out of the 53 sale agreements, 44 have one signatory as the seller, while 8 have two persons signing as sellers and one transaction has three sellers, all the three have different family names. Where there are two sellers, in most cases the sellers tend to be siblings. Where the selling is carried out by a married couple, it might be assumed that it is reselling of land acquired jointly given that under inherited customary land a married couple cannot hold and dispose of inherited customary land jointly. Even if they could in practice, the principle of customary land ownership does not recognize that unless it is acquired privately. This account follows logically the principle described above that in matrilineal situations a man married into a village does not have rights to sale land, and the same applies in virilocal situations for women under *chitengwa*. It is assumed that after divorce or death of the landed spouse, the surviving spouse will move back to her or his own home village. The joint selling or ownership of land by spouses, at least as reflected

on some sale agreements, is enough indication that the buying and selling of customary land is eventually transforming land tenure relations.

Usually, the sale agreement is in triplicate. The copies are distributed among the buyer, the village headman and the seller. Where estate agents or lawyers are involved, a fourth copy is made. The sale agreement is more important to the buyers as many of the participants observed that sellers have no reason to keep the copies. Some copies may be made and distributed to the witnesses.

Witnesses in Sale Agreements

Another important role in peri-urban transactions is that of a witness (*mboni*). Apparently the place of the witness is in recognition of the fact that selling customary land entails interactions that lead to potential disputes. An adage: *mulandu sukhalo opanda mboni* (a case is without basis when there is no witness) is often applied to emphasize this aspect. The norm is that there should be more than one witness for both the seller and the buyer. As the village headmen and some local estate agents put it, the ideal is to have at least three witnesses for each party. However, having more than one witness is a normative requirement which is not enforced in reality. The analysis of the 53 sale agreements reveals that the number of witnesses for the seller and the buyer ranges from non to three. Forty four (44) of the 53 sellers had one witness, while 8 sellers had two witnesses and one seller had no witness other than the village headman. With respect to the buyers, 40 of the 53 buyers had one witness, while 9 had two witnesses, one (1) had three witness and three (3) had no witness other than the village headman. In many transactions only one witness is available for the purpose of signing the sale agreement. Given that only one seller had no witness other than the village headman, while 3 buyers were in this situation, probably suggests that some land buyers are less bothered by the question of having witnesses, or it reflects the trust that such buyers have in the authority of the village headmen. Also, it could be correct to suggested that in practice the number of witnesses in each transaction depends on the availability of people to act in that role. If there is only one person acting as a witness, the sellers and buyers proceed with the signing of the sale agreement and it is assumed that the village head is the witness for both the seller and the buyer. This point is often emphasized as village headmen are expected to be honest and neutral arbiters.

Besides the requirement that there should be more than one witnesses, one village headmen observed that usually they advise sellers and buyers that the witness in any land transaction should be a close relative and perhaps a prominent member of the family or descent group, especially in the case of the witness for the land seller. This is also a normative position given that the analysis of the 53 sale agreements and also my interviews with different actors show that this requirement is not adhered to all the time. Although it is not easy to discern the relationship between the sellers and buyers and their respective witnesses from the information provided on sale agreements, there are a few additional observations that can be made. First, comparing the names of the sellers and the buyers in each transaction shows that 11 of the 53 sellers had one or more witnesses who shared the same family name, thus indicating close family ties or kinship, probably that of parent-child or sibling type. The same is true for the witnesses of the 13 out of the 53 buyers. In the transactions involving buyers with witnesses who shared the same family name, the relationship is either that of husband-wife (witness being spouse to the buyer) or parent-child (either son or daughter) or sibling type. These observations highlight to some degree the importance of kinship ties, though the numbers provided here might be considered as less significant as this account might be overemphasizing. Commenting on the practice of having spouses as witness, Mende observed that for all the three parcels of land he has acquired in the last seven years, he had his spouse as witness. Ideally the spouse is expected to know and approve important transactions given what Mende described as his family tradition. The most important observation is that a spouse and children are expected to inherit privately acquired property.

Most of the witnesses had different family names to the seller or buyer. Differences in family names do not, however, rule out existence of close kinship ties given that the witness might be a half-brother or half-sister (having same mother but different father), a parallel cousin or immediate sister using her husband's family name in case the witness is a married woman. The other important observation is that some people act as witness in a number of transactions involving different sellers or buyers, probably in the capacity of estate agent, friend or close associate, or just because they happen to be around when the transaction takes place. Also, it is common that a witness in one transaction could be the seller in another transaction. This seems to be the trend in Mwera village where I collected many sale

agreements, but also where the village headman's family has been playing the role of intermediary and therefore directly collaborating with some estate agents as their contact person at the village level.

Having a witness from a different family is considered problematic given that in the event of disputes, the witness who is not a close relative to the seller may deny knowledge of the transaction, or may claim that he or she was only co-opted, or rather induced or coerced into it. Often the relatives of the seller may disown such a transaction. It is common to hear in such situations sentiments like: "Who do you think you are?" "How would you witness to a transaction of our family land as if you are our relative?" These sentiments imply the necessity of observing carefully kinship ties or descent patterns. Yet, in practice sellers and also buyers are always willing to take non-kin and non-kin are always ready to volunteer and take on the role of witness for different reasons that include friendship as alluded to earlier on, but also cash incentives. It appears that ever since land became a commodity many people in the peri-urban villages of Blantyre are willing to take on any role provided there is some cash incentive. For instance, one brick layer accepted to be witness in the transaction involving reselling of land his family had previously sold, and in the process he earned K5 000.00. Sometimes there are uncertainties that make it imperative to have a witness who is close kin to the seller or the buyer as illustrated in two incidents that follow.

In the first case a woman, here known as Mrs. Mwala, works for the government of Malawi. She bought land from the village headman in one of the peri urban villages at the price of K100, 000.00 a couple of years ago and payment was by instalments. After paying 75 per cent of the price in two instalments of 25 per cent and 50 per cent each, she claims that she was advised by her friends that before making the final payment she should ask the village headman to bring along witnesses. The day she paid the balance she was accompanied by her mother. Then she was no longer living with her husband because they were on separation. The village headman invited the husband to his sister to be the witness. After signing the sale agreement Mrs. Mwala agreed with the seller (the village headman) that later on they should take the matter to the chief, but before that date came the village headman became ill and then died. Some months later, when Mrs. Mwala went to the village to start work on the land she was stopped by the sister to the deceased village headman, who is now the acting village headwoman in place of her son who is reported to be too young to assume the position. Mrs. Mwala

brought the sale agreement. When asked to confirm the sale agreement, the witness for the seller could not commit himself, arguing that he was dragged into signing by his late brother in-law. He observed that matters of land in the village are beyond his control given that his position in the village is just that of *mkamwini* (husband). He was coerced into signing as witness because he and the deceased village headman were in good friendly terms and often they went together to drink home brewed beer within that village and in the surrounding villages. The matter is still outstanding, though the current position is that the acting village headwoman expects Mrs. Mwala to pay her some K50, 000.00, that is, half the amount she paid as the price for the land to the deceased village headman.

The second incident relates to the purchase of a *dimba* garden by Agogo. The witnesses were close relatives. This arrangement helped when later on she had problems with the younger son of the seller, who was stealing sugarcane from the *dimba* on the pretext that it belongs to his family. As Agogo put it, “When I reached agreement with the seller we went together to the village headwoman who agreed to sign the sale agreement. The witness for the seller was her brother, while my witness was my son.” Both the seller and the village headwoman are now dead. Sometimes the fact that the seller and the village headwoman who signed the sale agreement passed away haunts Agogo. As she put it, although she is in good terms with the other son of the seller who cultivates a *dimba* garden next to her *dimba*, her concern is whether other members of the seller’s family will continue to recognize the transaction. Her other concern is whether the current village headman is aware of the transaction. Then she said: “Sometimes I ask myself, should I go to the village headman to ask him about it? Is he aware of the transaction? I am bothered that one day he might turn against me or my children or grandchildren.”

From these two accounts the signatories in sale agreements are the land seller, the buyer, the village head, and the witnesses for the seller and the buyer. In some villages the village headmen ask other close relatives, usually a younger brother, nephew or son to sign the sale agreements on their behalf because some of them are illiterate. This aspect reflects low adult literacy levels among the traditional leaders.¹⁰⁰ As Salima put it, “My uncle is the

¹⁰⁰ The 2008 population census reported 64 per cent literacy rate for people aged 5 years or older. Adult literacy rate is 59 per cent for women and 69 per cent for men (Government of Malawi 2008)

group village headman. Because of his old age I do most of the work on his behalf. I am the one who represents him at the chief's court. Since he cannot read and write, when it comes to signing land documents I go with him. I sign on his behalf, but he is the one who stamps the documents."

The Symbolism of the Date Stamp

Sale agreements, especially those for the period between 2004 and 2006, ought to have a date stamp. The sale agreements made before these dates do not. This might be an indication that the use of the date stamp on sale agreements is of recent origin, a fact confirmed in interviews with local estate agents and the village headmen. The authenticity of the sale agreements is linked to the date stamp, which might be referred to as the seal. For this reason every village headman has one 'official' date stamp. Every date stamp comes with an ink pad. Inscribed on the date stamp is the name of the village, the name of the traditional authority (T/A) and the name of the district. There is also space for the date, which is inserted using a ball point pen. One of the village headmen has the location of the village (Along Chileka Road) inscribed on the date stamp, but also his mobile phone numbers. As observed during interview with the village headman for Mwera village: "The date stamp confirms that the village headman knows about the transaction. It is confirmation of the ownership of the land, and that the transaction is not bogus." For the date stamp to have the effect it conveys, it is necessary that the village head appends his or her signature. Village headmen who are illiterate are expected to have the thumb printed or stamped alongside the date stamp. However, among the 53 sale agreements examined only few bear the thumb stamp of the village head since the signing is often done by nephews or other close relations in the case of the illiterate village heads as already point at.

Examining the use of the date stamp on 53 sale agreements I observed that 34 sale agreements were signed by respective village headmen or their representative and the date stamp was also used. Twelve (12) sale agreements were signed but no date stamp was used. These twelve transactions happened before 2004 in the case of Mwera village or prior to 2006 for the other villages. On one sale agreement the date stamp was used without the signature accompanying it. In 6 sale agreements the village headman neither signed nor date stamped the sale agreement. These six agreements are either

records of payments made in instalments prior to the final payment, for which a sale agreement is the norm, or they represent alternate copies of false agreements and under declarations often made in land transaction in the villages where village headmen demand big sums of money as the signing fee. The irony is that the 'false' sale agreements are in fact the 'real' or original agreements between the seller and the buyer.

On one occasion in Chikowa village, the village headman produced two sale agreements. One was prepared by the lawyer hired by the buyer and the other sale agreement was prepared by the seller. The sale agreement prepared by the lawyer pertained to the transaction involving land going at the price of K300, 000.00. The agreement provided space for the signatures of the seller (vendor), the buyer (purchaser), the representative of the law firm, the witnesses of the seller and the buyer. Space was not provided for the village headman's signature and the date stamp. The village headman observed that sale agreements prepared by lawyers, where provision is not made for the village headman's signature are not sufficient mechanism for authenticating transfer of customary land. For that transaction the buyer prepared another document where the seller, the buyer, and village headman signed. The second sale agreement provided space for signatures of the seller, the buyer, the witnesses and the village headman. What was missing was the date stamp of the village headman. With regard to this document the village headman insisted that it is valid given that it pertains to a transaction entered into before he acquired the date stamp. Therefore since the time he acquired the date stamp, all sale agreements have to have the date stamp if they are to be valid.

Given that the use of the date stamp is now considered a norm in these peri-urban land transactions, the buyers will often insist or demand that the sale agreement should bear the date stamp of the village headman. Those without the date stamp could be 'fake' documents. Some village headmen claim guarding jealously the date stamp from unscrupulous individuals. This is true in many villages. In Mwera village the village headman replaced the old date stamp and was also planning to replace the current one. The old date stamp was changed when the previous village headman passed away. It was rectangular in shape. It was replaced with a stamp that is almost square in shape. He suggested that he might change it again and his wish is to have one that is round in shape. As he put it, the present stamp might have been copied by crooks.

My two meetings with chiefs did not take place at the chiefs' homes or headquarters (courts). In both instances, I accompanied village headmen and persons seeking consent of the chief in respect of lease applications. In both cases the chief was interested to know more about the land, where it is located, when it was acquired, and whether there are any disputes involving that particular land. How the land could have been acquired appeared immaterial given that chiefs know that the only way one can acquire land now is through buying. One of the two chiefs observed that, "When a village headman has consented by signing and stamping the lease forms, that's the end of it. I am simply the chief. I do not have a village. There is no way I can know everything about all the land in my area." The two chiefs signed and stamped the consent forms. In both cases the date had to be written in ink by hand because the dating mechanism of the stamps stopped working. One of the two chiefs drew my attention to the fact that date stamps used by chiefs are provided by the state and that they are actually inscribed "Property of Malawi Government". Like village headmen, the chiefs append signatures to confirm the authenticity of the date stamp. As one of them put it:

Nowadays many people are capable of making date stamps and use them to commit crimes. If the signature is not appended to the date stamp, it shows lack of commitment. Chiefly matters are complex. It is not acceptable to let someone sign for you. Sometimes people come to my house while I am away. They ask my wife or children to stamp the forms. My wife and children know very well that only the chief ought to use the date stamp. I can ask my nephew or my sister to represent me at various meetings, but they cannot use the date stamp as I do. This is what chieftainship is. The chief ceases to be upon death. In such event the acting chief takes over until another substantive chief is appointed by the state.

This discourse gives agency or fills the date stamp with vitality and symbolism, but also engages with the notion of perpetuity of the positions of village headman or chief, which are inherited matrilineally, supposed outlive, and also independent of any individual holding the position at any one time as custom prescribes. The expectation is that the heir to the village headman or the chief will respect decisions made by the previous holder of the title or

position. This also touches on the perceptions of the validity of sale agreement and the transaction it refers to over time.

Perceptions on the Validity of Sale Agreements

As a matter of contract the sale agreement is proof of the transaction. Yet, the agreement to sell or buy precedes the signing of any of these papers. That is, the signing of the written sale agreement by the seller, the buyer, the village headman and witnesses substantiates the terms arrived at in the verbal agreement. In this sense the sale agreement as a document gives material and symbolic substance to the oral transaction, and so makes land transactions different from transactions involving other commodities.

In essence the validity of sale agreements is not tied to the date stamp or the signature of the village head. For instance in Mwera village I came across a sale agreement with a date stamp that is almost invisible. The date stamp is also inappropriately placed that the letters are from the right to left. Moreover, the typed name of the village is not spelled properly. The village headman drew my attention to the existence of another village by the misspelled name some kilometres away, but within the area of the same chief. At this point the village headman observed that despite these anomalies this sale agreement is still valid given that the names of the seller and buyers are properly recorded and also that the village headman has his signature correctly written.

The validity of sale agreements is further judged by the usefulness of having one. Although the agreements are not sanctioned by custom village headmen feel obliged to keep copies safe, given also their role as principal witness. As one village headman put it, "We keep copies because we know that conflicts about land take long to be resolved." The value of the sale agreements is to be appreciated when disputes arise as described in next chapter. It also relates to what Max Gluckman described as "no system in Africa seems to allow mere lapse of time to bar an action" since the primary concern under customary law is "to establish what belongs to whom and to restore it to him" Gluckman (1969:77, 75). Also, having copies of sale agreements allows descendants or heirs to know where to start from. Planning for the future is important for different reasons. First and foremost, land disputes do recur. Then, due to high mortality rates, when a new village headman is appointed copies of the sale agreements might help the new

office holder in discharging his or her duties well. As the village headman Mwera observed, “Sometimes some people take advantage when there is change in the person holding the position of village headman to resell land dubiously.” A further reason related to one before is that since the practice of selling land begun many families have sold several parcels of land to different people. As Gwembe and Chitseko observed, between them their families have sold land to more than 10 people each. The village headman might not know which sale agreement refers to particular transaction, but the mere fact that there are documents would deter multiple selling of land. This is but a matter of faith.

As a matter of faith, there are concerns that some village headmen may not appreciate the need to take good care of the sale agreements. As Blessings, one of the urban estate agent observed, “You know that most of the village headmen are not well educated, and that they cannot keep the sale agreements safely. You know material conditions of the village headmen, they have no store rooms. How can they keep the documents? But they need to have the documents.” My observation is that despite the low levels of education and also low material conditions, village headmen appreciate the need for safe keeping of sale agreements and many of them do keep these documents well, however crude the conditions of their living could be. The village headmen safeguard the sale agreements from exposure to meddlesome strangers, researcher inclusive. Hence the value of sale agreements is well appreciated. As one village headman also informed me, “In case there are disputes the sale agreement can be used as evidence of a transaction. We consider that the one buying land has lost his money so it will not be fair that he should also lose the land in case there are disputes. Keeping the sale agreements ensures that there is evidence of the transaction all the time. In case the buyer has lost his copy, he or she can find a copy here. Some buyers come to ask for documents they might have signed some years back. I do give them so that they can make photocopies.”

Yet, sale agreements do not reveal everything one actually needs to know about peri-urban land transactions, especially the pricing of land. Also, given that some village headmen ask for a percentage of the price of land as signing fee, some sellers and buyers (with the complicity of estate agents) under declare the price. For this reason, sale agreements do not always express economically the ‘wealth’ or value of the land. Chitseko pointed that for every transaction he facilitates he keeps copies of the sale agreements, even

in transactions where two sets of sale agreements are prepared. The first set shows the actual price of the land and the signatories are, as mentioned earlier on, the seller, buyer, witnesses and sometimes the estate agent, but not the village headman. The second set, which has the under declared price, bears the signature of the village headman as the 'authentic' record of the transaction. From the view point of the validity of sale agreements, the question that lingers on is how would such documents operate in case there are disagreements or disputes? The sellers, buyers and local estate agents claim that there is no need for dispute and my conversations with them did not lead to any predictable situations. But, some acknowledged the possibility of at least two hypothetical situations. The first situation could relate to the buyer claiming that both documents are valid and that each relate to a different transaction, one of which could have been sealed by the village headman, while the other could be pending, though the agreed price has been paid already. The other situation could relate to the seller or members of his or her family challenging and thus seeking cancellation of the transaction. In this event the seller would use the sale agreement with the lower value as the basis upon which repayment to the buyer could be made. The other copy, indicating the real and higher amount paid for the land could be disowned. It is difficult to imagine any village headman entertaining claims by the buyer based on the disowned document. The two scenarios remain hypothetical, and it is in the falsifying and under declaring the price that trust is also invoked to validate certain practices in peri-urban land transactions.

The validity of sale agreements also relates to the nature of the commodity being transferred. As Gluckman (1969) observed, the transfer of money against land does not transfer the land. Unlike other items families and individuals may sell, for example, the transfer of money against a chicken transfers the chicken (Gluckman talks about a cow), but the transfer of money does not transfer land until the sale agreements is signed and the signing fee duly paid. From the practical point of view the sale agreements serve both the purpose of the sale contract and as conveyance, and so reduce the burden of having to deal with two separate processes common in formal land transactions.¹⁰¹

¹⁰¹ In more formal land transactions, first, there is the agreement or the contract itself, which does not transfer land. Then, there is the conveyance, a document that transfers the title from the seller to buyer. If the land in question is leased land the conveyance is known as transfer of lease, while that with respect to freehold land is known as conveyance.

The validity of sale agreements in peri-urban land transactions is prone to challenge. While the sale agreements can be tendered in the courts of law as evidence pertaining to the agreement, one can also submit that the sale agreement is against the law. That is, if someone is buying customary land, when the law does not recognize that customary land is a commodity transferrable by way of sale, the act cannot be enforced on the basis of the sale agreement as doing so would be promoting unlawful acts.¹⁰² The paradox is that people who are conversant with the law are directly involved in the selling and buying of customary land and also in the making of some sale agreements.¹⁰³

In principle, the signing ceremony and the accompanying signing fee takes the place of ‘old’ custom where ‘begging’ or ‘gifting’ of land were accompanied by exchange of some symbolic gifts. The ceremony where the village headman and probably accompanied by counsellors, signs the sale agreement, append the date stamp in the presence of the seller, the buyer and witnesses and by that welcomes or accepts the buyer into the village community.¹⁰⁴

The Signing Fee

When Jambo bought land in Mwera village in 2007 the village head was then only acting on behalf of his sister (mother’s sister’s daughter). The acting village headman remarked that: “In the past a recipient of land would

¹⁰² Legal experts interviewed during my fieldwork and law texts on contracts suggest that validity of any contract rests on agreement (acceptance) which entails intention to create legal relationship, consideration, capacity, and legality. Agreement is simply an understanding or acceptance. Consideration relates to the parties receiving something they negotiated for in exchange for whatever they gave the other party to the agreement (mutually bargained-for-exchange). Intention to create a legal relation is that wish that the agreement is serious and that breaches may be redressed through courts of law or that will have legal consequences. Capacity relates to parties to the agreement not legally impaired for reasons of age (being child) or mentally disordered or drunkard. Finally, the agreement should not be promoting what is illegal. Misrepresentation, undue influence and mistake (error) can impair enforcement (cf. Byrd 2009). Properly prepared sale agreement would satisfy all core requirements, but for illegality.

¹⁰³ A case in point is one sale agreement signed by the seller, the village headman and a group village headman confirming payment for bare land by the Development of Malawian Traders Trust (DEMATT) in one of the peri-urban villages.

¹⁰⁴ As Gluckman observes further that the sealing of the bargains in Ghana has been the offer of a drink, while in some parts of Europe the clapping of hands (Gluckman 1969: 74).

provide the village headman a chicken or a pot of home brewed beer as a token of thanks, but today the village headman expects a goat.” That is, village headmen have always had material benefits from allocating land and in the present the benefit takes the form of money amounting to the market value of a goat. The language used is often embellished with the ‘old’ custom.

Regarding the payment of money to village headmen, studies by Peters and Kambewa have demonstrated that land transactions in the Lake Chilwa wetlands in southern Malawi involve renting of land for rice cultivation and such transactions are often accompanied by the giving of gifts to village headmen. As Peters (2006) put it, the word used for these payments is *chothokoza* (thanks), but could also be considered as a kind of ‘tribute.’ The material ‘Thank you’ is effectively reinvention of an older custom by the traditional leaders.¹⁰⁵ Similar practices are replicated in the squatter settlements of the cities of Blantyre and Lilongwe. In Blantyre’s township of Mbayani, such payments are made when selling houses. John Chome suggests that the amount of money paid as thank you to the village headman is arbitrarily based on the price received for the house (Chome 2002). Harri Englund writing about Lilongwe observes that the headmen of the original villages that are now townships consider migrants not as urban squatters, but as newcomers in their villages (Englund 2002b:265). As such, the headmen demand monetary compensation for the land that migrants occupy. In Englund’s view, in the early years of the influx of people into Lilongwe considerable sums of money were transferred to headmen’s households, but in recent times the actors in the township’s land and housing market are more diverse. Yet, headmen continue to insist on a share of every new transaction. Englund adds that such payments are now more symbolic than substantial, given that the dues in such transactions serve to remind residents of the headmen’s authority as the ultimate owners of the land. Similar practices have been reported in other countries, though the payments are not in any sense merely symbolic. Susan Diduk observed in Cameroon in the early 1980s that although money was being exchanged for land the *fon* (chief) never publicly used the terms ‘buy’ or ‘sell’ to describe the exchange. Instead,

¹⁰⁵ But Mitchell once generalize that “A village headman may expect little material benefit from his position of authority. If he is an administrative village headman he may be paid a small annuity of 5s. or 10s. Returning labour migrants may give him a blanket or a military overcoat, or perhaps a few shillings, but this is not usual. If he is not a strict Moslem, he will almost certainly be given a pot of beer from every brewing made for sale in the local ‘club house’” (Mitchell 1956:113).

the *fon* ‘gives’ land or receives ‘wine’, a metaphor used for cash (Diduk 1992). The United Nations Centre for Human Settlements (UNCHS) also writes that the gifts given to traditional leaders or farmers when a land plot is allocated were in the past symbolic, “the price of a drink” and the “price of pulling up” crops, now they involve much more substantial gifts and may occasionally reach a size that is comparable to the commercial value of land (UNCHS 1996:241). Even as the gift is given or taken as proof of the fundamental cultural attribute, the values or practices implied by the shared symbols are various and contradictory (cf. Ferguson 1999:97).

Paying *chothokoza* and monetary compensations as Peters (2006) and Englund (2002b) put it respectively is symbolic and customary as evident in the peri-urban villages of Blantyre. However, such payments are linked to the written sale agreements, and sometimes to the consent of the chief in lease application forms, and the amounts involved, as reported by the UNCHS (1996), are relatively substantial. Hence, I would prefer to call these cash payments the ‘signing fee’, but also to note that such fees are an act of legitimizing the transfer of the land. As Chanock (1985) argues in his treatise of law, custom and social order, custom is not simply either practice or a collection of rules for enforcement or guidance but is the language of legitimation. Legitimation takes the form of witnessing and authenticating or certifying, for which the fee is paid. The fee is often explained and thus made meaningful within the framework of other existing notions and practices. For instance, besides the signing fee, there are other benefits that traditional leaders derive, which in essence make the giving and taking of the signing fee more of a contextual than stand-alone benefit. To this extent the signing fee as an act of legitimation is part of an ongoing and evolving cultural process. Often, both a seller and a buyer would pay some money to a village head. The assumption is that for the seller the fee is also some form of deregistration fee, even if the seller is not moving out of the village, while for the buyer it is like a registration fee.¹⁰⁶ It is this aspect of legitimizing that the subsequent subsections seek to deconstruct. I will dwell on the signing fee in everyday life, negotiability of the fee, and problematic aspects of the fee. As is common with many symbolic representations, the signing fee is subject to contestation either about its form or its meaning.

¹⁰⁶ Modern day states require immigrants to pay registration and deregistration fee.

The Signing Fee in Everyday Life

In everyday discourse the signing fee legitimizes the transactions. To appreciate that one needs to delve into everyday relations in the villages, where the paying and receiving of the fee takes place. The paying of the fee is part and parcel of ongoing social interactions and is premised on the notion of need and complementarity. That is, those selling and buying land need the help of the village headman, and the fee is part of cementing this and other relationships.

Lomoni, who is building a house on land he acquired a few months prior to my fieldwork, observed that the role of the village headman does not end with the signing of sale agreement. After buying his land the village headman advised him that before he could start working on the site he should let him (the village headman) know. Initially, Lomoni thought the village headman would be asking for more money, a form of courtesy known also as *kuwaona a mfumu* (seeing the village headman) or *kuwapita a mfumu kumaso* (passing within sight of the village headman). However, the purpose was to let the headman know that no one else but the buyer (Lomoni) is the one building on the land. It meant legitimizing the work in the absence of development control by the state. Further, this meant that in case of disputes among the workers, for example fights and injuries, the disputants could also seek or benefit from the intervention of the village headman. In another instance encountered at a construction site, the foreman building the house hired some women to draw water for the work. All the women engaged in this role were already married. Then the foreman coerced one of the women into some clandestine love affair, thus confirming what one of the village headmen had observed earlier on that married women in the village often behave as if they are not married. The husband to the woman and the wife to the foreman heard about it and soon thereafter both families collapsed. This was after the wife of the foreman had come to the construction site to fight with the woman flirting with her husband (*kulira nsanje*). The matter was brought before the village headman for mediation, and it was settled at the village level even before the owner of the house under construction could hear about it.

The role of the village head extends to what one village headman described figuratively as *mfumu ndi kudzala* (literary means: the village head (chief) is like ash or waste heap) used often to imply that the village headman

The signatories are the seller, the buyer and the witnesses. The village headman is not involved at this stage.

The one buying the land insisted that the village headman should not be involved at this stage because he had no money to pay to the village head. The impression was that *mafumu amavuta* (village headman are often difficult to deal with) since they often expect to receive some money in every transaction. For reasons beyond the comprehension of the land seller, the buyer failed to pay the smaller balance, and after a five year period, during which the land lied idle, the sellers decided to cancel the transaction. The seller sent the buyer several messages to come to collect his money, but the buyer ignored them. Later the buyer died. After a few months following his death, the buyer's widow came to the village and the sellers had by then approached the village headman to explain their predicament. The village headman offered to handle the matter on behalf of the seller. When the buyer's widow arrived, the seller referred her to the village headman. She was not given the option of renegotiating the transaction; instead she was paid back K50, 000.00. The money used to repay her was realized after selling the same piece of land to another person at the price of K215, 000.00. The seller and his family were helped by the fact that no sale agreement was signed. As the seller put it, "We know that when the village headman has agreed to sign the sale agreement, immediately the land ceases to belong to the seller. But if the village headman has not signed, we know it is possible to sell it for the second time. I tell people seeking to buy land that they have to take care, by passing the village headman is irrational".

What these accounts suggest is that the 'signing fee' legitimizes the transactions, but it does so in a manner that transcends mere 'thank you' or 'monetary compensation' would do. It legitimizes relations of buying and selling within a set of pre-given socio-cultural relations. The fee, as perceived and discussed in everyday relations, is based on tradition and it is given to traditionally sanctioned person. For this reason, the authority to receive and the legitimacy of the fee falls within the Weberian typology of authority legitimized by tradition, unlike that based on charisma and rational legal forms of authority. Yet, there have been concerns that village headmen and chiefs are peddling influence and engaging in extortion, which are corrupt acts.¹⁰⁷ One government official observed that:

¹⁰⁷ Laws of Malawi, Corrupt Practices Act chapter 7:04 defines extortion as the demanding or receiving by a person in office of a fee or other payment for services, work, supplies or

The law says that customary land is for free, but these days it is not possible to find free land as such. It is not possible because of greed among traditional leaders. In the present political dispensation the involvement of traditional leaders in politics has given them some leverage. They sell land and the state looks the other way because of their perceived role in delivering the rural vote. These days, chiefs ask for some money if they are to stamp consent forms. We hear it from people coming from the chiefs. Yet, the chiefs are also paid allowances by the state.

Rather than focusing on the illegality of the fee, there is a need to pay attention to the political embeddedness of the practices and also the political clientelism that multipartyism has unleashed. A contrary view is that, as one legal expert observed, it is like when buying a car, when changing the ownership from owner A to owner B, tax is paid to the state.¹⁰⁸ So too with transferring land from the seller to the one buying, the village headmen as immediate authorities have to collect some fee. The fee that village headmen collect for signing 'sale agreements' vary from village to village and also according to the type of transaction, whether it is a sale or resale of land and also whether it is extension of the land or sale of a strip of land for access road or foot path. Also, it is considered socio-politically correct that village headmen receive 'thank you' for anything they perform. Reporting birth of a child or death of a family member is accompanied by small gifts. In case of death, the payment is known as *malodza* (unpleasant or evil tidings). The giving and receiving always embody meaning that transcends the value of what is given.¹⁰⁹

In the course of viewing and discussing the contents of sale agreements with the village headman Chikowa a woman aged about 45 years old joined us. She had a baby strapped on her back. I was seated on a cane chair while the village headman sat on a low wooden stool. The woman kneeled down next to the village headman and after exchanging greetings, she gave the village headman some money, one K500.00 note accompanied by the words *ya shuga* (for your sugar). The village headman thanked her for this consideration. Then he asked her some questions about the boundary of land

other thing which should be performed, done, delivered, offered, provided or given gratuitously.

¹⁰⁸ Interview with Mr. Kelias Mulenga of Legal Aid (Blantyre) on 26 May 2010.

¹⁰⁹ Martin Chanock writes that "For custom is not simply either practice or a collection of rules for enforcement or guidance but is the language of legitimation" Chanock (1985:44).

in question, whether it had been agreed on, and whether the exact position of the brick wall fence had been decided. The woman replied that both issues were resolved. She provided the details indicating exactly where the fence would pass or follow. All along the village headman was nodding his head in agreement. Then she mentioned that the blue gum trees along the boundary will be cut down and the stumps uprooted. She would have the wood for use as fuel. Finally, the village headman thank her for clarifying that the price is K8,000.00, not what her brother had reported earlier (K6,000.00). As I learned from the village headman, the woman in this story is his distant niece, that is, the grandmother to this woman is the sister to the mother of this village headman.

The buying and selling of land entails establishing new or reinforcing existing relationships, and village headmen draw on such relationships to their advantage in material terms. For example, one village headman who had just built a new house asked Mr. Jambo, one of the people who acquired land in the peri-urban village to let him collect broken bricks from his house for free. He used the broken bricks as the base for the concrete floor of his new house. In another case, village headman Mphwere has a son who lives and works in South Africa. His son came back to Malawi for holidays in November 2009, and he stayed on until February 2010. When it was time to travel back to South Africa he did not have money for his transport, and so he asked his father to borrow some money on his behalf so that he could use on his return trip to South Africa. The village headman decided to borrow money from one of the people who has built a house in the village, but was at the time living in the city. As the village headman put it: “I decided that I should find out from you if you could assist me. As our elders would say, you do not go out soliciting for help from strangers out there before seeking help from those within your own household.” Also, every dispute brought to the village headman’s *bwalo* (court yard) for mediation attracts *chapabwalo* (court fee). Both parties to the dispute are required to bring the fee, which varies from village to village. In some villages it is K100.00 while in others it is K400.00 or more. Further, when Mr. Mwanga finished building his house in Chikowa village he invited the village headman to his home as a matter of courtesy. As Mwanga put it, “I did my homework. I learnt that the village headman drinks beer so much. I bought him beer and a bale of sugar (a bag weighing 20kg). I gave him nice food and he was all over the moon. Do you know what he said? He declared that I, Mr. Mwanga, would be the deputy

village headman, nobody else but me.” Yet, there is no position of deputy village headman. Village headmen are assisted by counsellors (*nduna*) or other close relatives. One of them could be the potential successor (*mlowa malo*). Furthermore, in the villages that have *dambwe* (camps for masked or big dance) village headmen benefit materially in the sense that the organizers present a chicken or equivalent in cash to the village head before *ng’oma* (dance event / literary the drums).

Negotiating the Signing Fee

Negotiating the fee takes different forms. The first way is under declaring the price. As Lameck put it, “What we normally do is that after agreeing on the price, we also agree to under declare the price. That way the amount of money going to the village headman becomes less.” In one case, the price of the land was set at K670, 000.00 but the village headman was informed that it was K200, 000.00. That way the village headman collected K40, 000.00, which he shared with his two counsellors. Another family sold land at K145, 000.00, and the village headman was informed that the price was K60, 000.00 (sixty thousand kwacha). That way the village headman collected K12, 000.00, being K6, 000.00 each from the buyer and the seller, instead of K29, 000.00 (K14, 500.00 each from the buyer and the seller). On another occasion Chitseko showed me two sale agreements. One sale agreement shows that the price of that land is K180, 000.00 and the other is K430, 000.00. The sale agreement for the first transaction is hand written on a notebook sheet, while the one with the value of K430, 000.00 is computer printed. The K430, 000.00 transactions shows that the deposit of K300, 000.00 was paid in October 2009 and the final payment of K130, 000.00 was made later in November 2009. Then, Chitseko observed that while one of the sale agreements before me shows that the price of the land is K430, 000.00, the sale agreement on which the village headman appended his signature indicates that the price is K200, 000.00 only. Apparently, this is often done to avoid paying the village headman a lot of money, as the village headman demands 10 per cent of the price as his signing fee.

It is generally felt that village headmen who insist on collecting 10 per cent do not deserve to know the real price of the land (table 5.1). Under declaring the price of land to the village headman is made on trust, and often it is premised on the notion of mutual benefit by the seller and the buyer. For

this reason under declaring the price rarely happens in the villages where the village headmen do not insist on collecting 10 per cent of the price. Under declaring of the price is not limited to land transactions, given the revelations that it also happens in the transfer fees for football players between clubs.¹¹⁰ For these reasons under declaring the price is probably a form of everyday critique and resistance to the domination by the village headmen perpetrated under the guise of custom or tradition. The concern is that some village headmen consider date stamps as cash making machines.

Table 5.1 Signing Fees in Selected Transactions

Source	Year	Seller/ Buyer/	Price paid (K)	Price (K) declared	Signing Fee (K)	Agent fee (K)
Mende	2002	Buyer	60,000	60,000	5000	No agent
Chitseko	2005	Seller	550,000	200,000	20,000	25,000
Peterson	2007	Seller	240,000	200,000	8,000	No agent
Chikho	2007	Seller	255,000	255,000	10,000*	5,000
Chinangwa	2008	Seller	300,000	300,000	20,000	No agent
Chitseko	2008	Seller	80,000	80,000	10,000	5,000
Moses	2008	Seller	670,000	200,000	40,000*	50,000
Mandevu	2008	Son to seller	145,000	60,000	12,000*	No agent
Chitseko	2009	Seller	270,000	270,000	27,000*	15, 000
Fanuel	2009	Seller	600,000	300,000	30,000	10,000
Fanuel	2009	Seller	400,000	100,000	10,000	20,000
Fanuel	2009	Seller	350,000	150,000	30,000*	15,000
Mbalame	2009	Seller	250,000	250,000	7000	No

¹¹⁰ In *The Weekend Times*, March 5 – 7, 2010 it was reported that “There is a lot of illegal dealings in the majority of the transfers of Malawian players up to the extent of under declaring transfer fees to the football association of Malawi (FAM) in order to cut down the 10% share for the mother body. FAM secretary general is reported as noting that ‘Most of the times the transfer fee that clubs declare to FAM is not genuine and this happens after the seller and the buyer have agreed to falsify the contract’”

						agent
Mende	2009	Buyer	270,000	270,000	10,000	No agent
Gwembe	2009	Buyer	50,000	50,000	5,000	No agent
Mwera	2010	Village head	700,000	700,000	20,000*	70,000

Note: * Half of the fee paid by the seller and the other half by the buyer

In the second sense, negotiating the signing fee entails engaging the village headman to reduce the amount of his signing fee. This would normally happen in the villages where the village headmen do not insist on collecting 10 per cent of the price. Mbalame, who sold land at K250, 000.00, observed that the village headman for his village asked him to pay K7000.00, but later he was allowed to pay K5000.00 (2 per cent) only after explaining his financial problems. As Mbalame put it, “I informed the village headman that there are a number of issues that as a family man I would like to deal with and he understood my position.” In another transaction involving land sold at K700, 000.00 the village headman collected a total of K20, 000.00 (about 2.9 per cent of the price), being K10, 000.00 (or about 1.43 per cent) each from the seller and the buyer. These two transactions took place in Mwera village. When I asked the village headman Mwera why he accepts less money than other village headmen, he observed that both the seller and the buyer are like his children and members of the village, even though the buyer is in most land transactions an outsider. The assumption is that the moment the buyer settles in the village he will contribute to the development of the village as any other villager would. He drew my attention to existence of *kaundula* (village register), that the settling in of new people in the village will also be enhanced. Peterson, who comes from Mzara village where the village headman insists on collecting 10 per cent as signing fee, mentioned that instead of declaring the real price of K240, 000, he informed the village headman that the price is K200, 000.00. Yet, instead of paying K20, 000.00 on the declared price, he actually paid K8000.00 after convincing the village headman that his family had many issues to deal with, including erecting the tombstones for his mother and grandparents who died a couple of years before. Mapira paid K5000.00 as signing fee to one village headman. Later, he described the village headman as a very kind person. The lower signing

fee was due to the fact that the estate agent who facilitated the transaction happened to be related by association to the family of the village headman.

The interpretation regarding these variations is that to a certain degree fees paid to village headman are ‘voluntary’, though there are some exceptions. There is also a perception that village headmen are greedy and they seek to take a big amount,¹¹¹ though in a number of transactions what they actually take is dependent on the price, and the actual amount is also negotiable. In practice village headmen who ask for a percentage of the price rarely insist on the full amount when the actual amount involved is quite big. Also, as one estate agent attested, when the buyer is rich, where being rich is a relative term, the village headman would expect more money. Sometimes the amount required could be as low as the price of the one (1) kg packet of sugar. In the final analysis the signing fee is not fixed. Those paying the fee are aware that the money paid is actually the means of survival for the village headmen. Taking the signing fee sets apart the traditional leaders from their subjects. The village headmen in peri-urban villages are in this sense *mabwana* in their own right. As Njewa observed:

“Our village headmen are bosses. They are signing for land on almost each other day. They actually earn a lot of money. This is not a joke. Just imagine this garden was sold already, that one too was sold recently, and the one over there too was sold. In fact all the land from here up to that road is already sold. Another boss is also building a house over that side. For all these transactions, it is the same village headman signing and collecting the signing fee.”

These sentiments are not meant to be a complement, but suggest that such fees, though negotiable, invoke ill will rather than respect, and in some cases lead to implicit competition rather than compliance. Sometimes disputes over chieftainship at village level gravitate around the land money.

¹¹¹ Also discussed in Ubink (2008:268) in the context of one Ashanti village in Ghana.

Questions about the Signing Fee

The paying of signing fee as part of 'custom' becomes problematic when it is fixed either as the percentage of the price of land or as a lump sum. There is an assumption that under custom the payment should not be fixed. Moreover, under custom timing of the return gift need not occur on the day the agreement to grant land is made. For these reasons some buyers and sellers claim that the payments cannot be justified on the basis of 'custom'. Further, there are instances where the fee is even made on demand using threats of action or inaction. For instance, one family bought land from the villager who claimed that the land is customary, though the land is now known to be public land. That land is part of the international airport in Blantyre and has since been reclaimed by the state. Then, the village headman confirmed that the land is customary and went on to ask the buyer to pay the signing fee of K20, 000.00 against land priced at K55, 000.00 only. The village headman insisted that the buyer should pay or risk not being assisted later on. The buyer paid, but the village headman is not able to assist him after the state reclaimed it.

Often tradition or custom is implied, for example, reference is made to such payments as 'giving a goat' or 'chicken'. The value of the goat is not explicit, and in many cases what the village headmen or chiefs (in case of application for lease) collect as the 'signing fee' is more than the prevailing average price of a goat or chicken in local produce markets. There is no process or procedure of checking how the money is spent and there is also nothing like a village headman's or chief's treasury where members of the village or destitute strangers could draw from. Here contrast could be made to what Max Gluckman referred to as well-authenticated records that suggest how African chiefs distributed the tribute which flowed in to them from their people, back among the people, either as individual gifts or in huge public feasts (Gluckman 1965:15).

The problematic position of the signing fees is appreciated by some village headmen. One of the village headmen described taking 10 per cent of the selling price as a signing fee as form of theft from the seller. Already, there are concerns that traditional leaders are corrupt, coming second to the state police, which at the time of fieldwork was rated as the most corrupt

institution in Malawi.¹¹² Such reports suggest that traditional leaders or chiefs practice corruption under the guise of following tradition and custom.¹¹³ Other concerns about corrupt chiefs have been raised by the Ministry of Local Government and Rural Development.¹¹⁴ Traditional leaders are considered public officers, and for that reason draw money from the state in the form of monthly allowances. Malawi's Corruption Practices Act does not recognize the 'gift' and thus it fails to draw the boundary between what is by custom acceptable and what could be bribery or act of reciprocity.¹¹⁵ Similar concerns arise in the leasing of land as the next section highlights.

Custom and Formalization of Land Acquisitions

The monetization of land transfers culminates in *de facto* individualization of the land given that at the point of sale the land practically becomes privately acquired customary land. Yet, the legal status of the land does not change. The land buyer becomes one of the members of the customary landholding group on the basis of having been 'allocated' the land (by the village headman) by way of buying. Although customary tenure provides tenure security and the sale agreements offer additional safeguard, some

¹¹² During the year 2009 the Malawi Anti-Corruption Bureau (ACB) received 1,700 complaints of which 218 involved chiefs, representing some 12 per cent of the complaints. See Mike Chipalasa, 'Chiefs trail police in corruption says ACB', *The Daily Times*, 16 August 2010.

¹¹³ In the editorial comment titled 'Our chiefs can do better than this', *The Daily Times*, 16 August 2010, the editorial team observed that "We need to remind our traditional leaders that the throne they sit on is an important one and the people look up to them for direction and resolution of their many disputes. But no one wants to be led by a corrupt person. Once any chief is implicated in corruption not only does it erode their moral worthiness, it also diminishes the authority of the rest of the traditional chiefs".

¹¹⁴ The press release by the ministry highlighted what the minister referred to as expectations of the public and the requirements of the law in the following words: "The public expect Chiefs not only to be custodians of our culture but also deem them to be key leaders of development programs. Above all, chiefs are required to be exemplary in obeying and reinforcing the law." The minister bemoaned the tendency of chiefs demanding payment for services to their subjects, including signing forms for loans under the Malawi Rural development Fund (MARDEF) and the Youth Enterprise Development Fund (YEDEF). See press release by the Ministry of Local Government and Rural Development titled "Corruption by Traditional Leaders", *Malawi News*, May 15 – 21, 2010.

¹¹⁵ This is a challenge that derives from western notions of corruption. As Werner (2002) has observed in relation to the International Monetary Fund (IMF) report on corruption, this oversight makes the giving of gift an 'immoral' act while also criminalizing the obligation to reciprocate.

buyers proceed to acquire title deeds by applying for lease with the state. Individualization of such land is the logical outcome of leasing land given that leasing transforms customary (communal) land into private land. Customary rights are extinguished, and so lapsed leasehold land becomes public land.¹¹⁶ Ideally the status of land as either customary or leased land represent incompatible or opposing notions of legitimacy which in reality is not always the case.

Most of the people buying land in the peri-urban villages and who proceed to lease it claim that the possibility of leasing the land is one of the incentives of acquiring land in the peri-urban villages. Since the selling or buying of customary land is considered unlawful from the point of law, in the correspondence with the lands department sale agreements are not attached and the prices or amount of money paid for any land to be leased is never mentioned. Yet, some officers in the department of lands also agree that the possibility of leasing customary land could be one of the ways by which the state is indirectly encouraging the selling or buying of customary land, especially in the peri-urban villages. For this reason, and as the UNCHS (1996) suggests, in many developing countries one characteristic of government involvement in peri-urban land matters is a combination of official policies that restrict and constrain formal or legal land markets and unofficial tolerance of unlawful land transactions. As one of the government officers put it in response to my question on the effect of the possibility of leasing land on the selling of customary land:

Yes it does. We are partly to blame since whenever someone comes to us that he has land in a certain peri-urban village we do not care to find out how that land was acquired. We verify whether the land is customary or not, then proceed to provide them with the consultation with chiefs' forms, and the application form for lease. Then we allow the applicant do the consultations with the village headman, the chief and the district commissioner. We do not take time to find out how the land was acquired. If we were strict the practice of selling customary land could be curtailed. You will see it in these areas that there is no orderly development. The plots are of different sizes, some are too big while

¹¹⁶ Land Act (1965) [Chapter 57:01 of the Laws of Malawi]

others are small, and the orientation of the houses tends to be irregular. Planning is difficult.

On their part, village headmen and the chiefs, when called upon to give consent in respect of the application for land lease as required for administrative purposes, often consider the manner in which the land was acquired as the precondition for granting consent. Buyers are sometimes advised by the village headman to lease the land, if they wish to do so. The village headmen are also quick to point that it is up to the person to act if he or she so wishes. This makes sense given that leasing land is not the only appropriate means for establishing and exercising claims to the land. Local perceptions suggest that leasing land implies juxtaposing two tenure systems that are secure in their own right, though the leasing of land by its nature converts customary holdings into private title.



Figure 5.7 Measuring land for the purpose of producing a sketch plan to be used when applying for the leasing of customary land

Applying for lease is not just to secure the land by the fact of holding title, but also a strategy to make such customary land an instrument of economic and financial power. This is the logical outcome of leasing land,

given that the process effectively removes the land from the collective or clan ownership (cf. Kaitilla 1995: 111- 2) into the ambit and purview of state legitimization and protection.¹¹⁷ I am not interested in the security of tenure or the planning aspects, but the process of acquiring the lease and how the gap between norms and practices is negotiated. I will pay attention to practices and relational issues by which the leasing of customary land is effectively informalized and traditionalized.

To begin with, while the option to lease land is in principle open to all Malawians, strangers who acquired land by begging experience some limitations. The major limitation is that they are not in a relationship of ownership to the land, while strangers who acquire land by buying do. Owing to this understanding leasing peri-urban land is subject to custom, given that the village headmen would normally consider competing rights over that land before granting consent. I will illustrate this by referring to one of the stories I encountered. A family, here referred to as Chibonga, acquired land from the Gonthi family some 40 years ago by begging. The Chibonga family has been cultivating the land over these years. There are few mango trees on the land, which were planted by the Gonthi family. A month before commencement of my fieldwork one of the sons in the Chibonga family made bricks and decided to cut down one of the mango trees to use in firing his bricks. While cutting down the tree, one member of the Gonthi family stopped him arguing that while the Chibonga family could cultivate the land and collect fruits from the trees, rights to fell the trees could be exercised by

¹¹⁷ de Soto, the Chilean economist, advocates for the formalization of all forms of property. His book *The Mystery of Capital: Why capitalism triumphs in the West and fails everywhere else* (2000) suggests that the main cause of poverty is the continuing lack of access to formal property rights among poor people in poor countries (Benjaminsen et al 2006). Benjaminsen et al (2006) suggest that a careful reading of de Soto shows that the benefits of formalization fall into six broad categories: fixing the economic potential of assets; integrating dispersed information (leading to transaction cost savings); making people accountable (transgressions may, for example, be punished by seizing property); making assets fungible (divisible, combinable, and transferable e.g. as collateral); networking people (by facilitating exchange of information about property and property owners); and protecting transactions (making e.g. fraud and theft difficult). On the other hand Mooya and Cloete (2005) suggest the following advantages of regularization: security against eviction, free sale at full market price or higher land values, stimulated investments in home improvements and consolidation, facilitates the introduction of basic services such as electricity and water, generates greater access to credit as collateral on loans, incorporates residents into the property-owning democracy and citizenry, and integrates settlements and property into the tax and regulatory base of the city or state.

or with the consent of the members of the Gonthi family only. Rights to cultivate the land do not include rights to cut down the trees, let alone to sell the land itself. Building some houses on the land would not make them owners of the land. By extension, the Chibonga family has no rights to lease that land given that such a process would compromise the rights that the Gonthi family retains over it. In the event that the Chibonga family intends to lease the land, the village headman would normally seek the opinion of the Gonthi family before giving his consent. This form of security constrains permanent alienation of land granted to others as gifts.

Leasing customary land is also subject to long and cumbersome processes, often involving as Angelique Haugerud observed in the context of Kenya the “payment of official and unofficial fees” (Haugerud 1989:61). The formal fees are low, but the extra payments make leasing land expensive. It all starts with seeking the consent of traditional authority through the village headman. Often, traditional authorities or chiefs require that applicants for lease should be accompanied by the respective village headmen. The reason is that sometimes unscrupulous people forge documents and end up leasing land belonging to other persons. In the context of Mwera village, this requirement became imperative following a divorce case, which is currently before the High Court of Malawi. In brief, a married couple acquired customary land by buying along the Blantyre – Lilongwe road, and went on to lease it. When they divorced the ownership of the land and the houses thereon has become a contentious matter. The sale agreement is in the name of the man (ex-husband), while the title deed (lease) is in the name of woman (ex-wife). The sale agreement was signed by the former village headman, who is now dead (deceased), but the application for lease was made during the tenure of the current village headman. The ex-husband claims that the current village headman might have been corrupted by his ex-wife to have the lease consent in her own name. When the village headman and the chief of the area appeared before the court of law, the question was who did they considered the owner of the land when signing the forms for the consent to lease the land. Unlike in the past, the village headman recommends that sale agreements and lease application forms should show names of both the husband and the wife. The names on the lease form should also tally with those on the sale agreement.

A signing fee is required if the chief is to sign the forms. As discussed above, the giving and receiving of the fees is justified as based in custom,

though the leasing of the land is not considered part of custom. The payment to the village headman or chief is made even in the cases where the application for lease is made by an institution, for example, religious bodies. During one of my many visits to government offices in Blantyre I met two church elders who came to inquire about the process of leasing land. The developments on the land that is located in another part of Blantyre city's vast peri-urban include a church building and some classrooms for a primary school. There is also a privately owned grocery store and telephone exchange¹¹⁸ within the school's grounds. Initially the grocery owner operated in a make shift structure. Later on he built a permanent structure without consent. When the decision was made to ask him leave the school premises he refused to leave until he could be compensated. In 2005 his property on the land was valued at K91, 350.00, but he refused to take the cheque issued by the state on the grounds that the amount of compensation offered is too low. Then he was advised to hire private property valuers so that the state could compare the assessments. As of mid-2010 he had not arranged private valuation of his property. The two church elders were then advised to prepare the sketch plan of the land, which would cost them K15, 000.00. Other fees included inspection fee of K1 250.00 payable to the district commissioner's office, and field allowance of at least K3, 000.00 payable to the officers who would do the inspection on private terms. In addition, they were also advised that they will have to pay K10, 000.00 for temporary beacons. The two elders could not comprehend the fee structure. They had already paid money to the village headman and the chief to obtain consent. Then, the government officers offered to assist with the drawing of sketch plans and with laying the temporary beacons (corner stone), also on private arrangement.

In practice, consultations with the chief are done by the applicant, when the norm should have been officers from the district commissioner meeting the village headmen/headwomen and the chiefs on the land and collectively agree that the land is indeed available and every other interests have been considered satisfactorily. As one of the officers in district commissioner's office observed, it used to happen that way but it was stopped. As he put it: "Normally we are required to visit the site, to meet the village headperson so

¹¹⁸ The telephone exchange belongs to the Malawi Telecommunications Limited (MTL). The telephone exchange was constructed when MTL was a public entity, but now it is a private entity following the liberalization of the telecommunication sector in the last few years.

that he or she can confirm that there are no disputes. But in many cases we receive forms that have already been signed and stamped by the village headman and the chief. Therefore, it is not necessary to ask them to meet on the land.” It appears that the decision to stop following the ‘proper’ practice is also a pragmatic one given resource constraints. Yet, it could be true that the process has eventually become rather opaque.

The number of people benefiting in their personal capacity in peri-urban land transactions includes the civil servants who cash on field inspections.¹¹⁹ Fees paid into the government purse are lower compared to what officials collect in their private capacity. Larger payments are made by those who would want their applications handled with minimum delay. Sometimes officers comment on how their colleagues actually ‘sit’ on or hold files so that applicants would be compelled to pay money to accelerate the process. As Cynthia Werner observed, before the emergence of the global anticorruption campaign in the mid-1990s, such practices were perceived useful for “greasing the machine’s wheel or for speeding things” (Werner 2002:184).

Corruption is not the only concern. There is another concern over poor records keeping. It is often claimed that applicants’ files for land lease are sometimes lost within offices, between offices and between departments. The situation was once summarized by one junior officer who observed that some applications do not pass through appropriate channels/offices because of ‘corrupt’ networks. As he put it: “Sometimes I receive the files after every other process has been fulfilled. This happens when the applicants are well connected. Applications made by common people always pass through this office.” Bribes and ethnicity play some big role in the work patterns of staff. Once one officer complained to her office mates that: “I was very surprised to see the way he was handling the file. How could one hold on to a file like that? That happens when money is involved.” After an interlude another officer chipped in: “Do you think Mr. Z can promote me? People from your ethnic group are very difficult to work with. This is the reason many people in this country complain about the conduct of people of your ethnic group.” These sentiments reflect an underlying challenge of establishing an efficient bureaucracy. Corruption and nepotism are celebrated. As another officer observed in relation to ongoing investigations by the Anti-Corruption

¹¹⁹ It happened at one time that lease forms for land in two neighbouring villages were swapped, signed and stamped inappropriately.

Bureau, “Sometimes other people think that reporting someone is being clever. Doing so harms people benefiting from the system. ... The lease process delays at two stages, in the minister’s office and at the surveyor general’s office. In the past officers could accelerate the process, but these days they are scared. Man is born corrupt.”

The mere mention of the ministers’ office and that of the surveyor general would suggest that corruption is endemic all the way up to the higher offices.¹²⁰ A case in point is the lease granted wrongfully, as I was repeatedly told by several government officers from different departments, on public land in one peri-urban area of Blantyre. The land was for many years used by villagers and so it was assumed to be customary land. At one point the village headman ‘allocated’ 10 hectares to one businessman for the purpose of establishing a dairy farm. Consent to lease this land was granted and thereafter the lease was issued within a very short period. When the anomaly was discovered several years later the proper course of action could have been revoking the lease, but it has not been revoked because it is apparent that there was negligence at various levels in the process of leasing it. Negligence is euphemism for corruption and it used to cover up or absolve those involved of any responsibility. From the informants’ point of view, the beneficiaries have good connections to the state. Incidentally, the land sector in many parts of Africa is locked in corrupt practices of various kinds. On corruption in state departments dealing with land, James Ferguson writing about the *Zambian Copperbelt* suggests that “They tell you to use proper channels. But the only proper channel is to be related to some important politician; without that, nothing!” (Ferguson 1999: 155). Carola Lentz, on the other hand, suggests that this state of affairs implies that “corruption and political networking often undermine the formal rules of land transactions, and render state formalization rather ‘informal’” (Lentz 2007: 52). This state of affairs brings into focus the problematic dichotomy of formal versus informal in social and economic relationships. This is the case as it misses the reality on the African continent where areas of the economy that are not regulated by the state can be more formal than the “official” economy. As

¹²⁰ This statement could be the true reflection of the situation. As I was told several times by government officials from different departments and on different occasions, a cabinet minister in the former government grabbed land from one University College. When he died his children sold it to one Asian businessman, but the state reclaimed it for the college after a change of government.

for Blantyre, this scenario is evident in peri-urban villages lying within the boundary of the city where the process is even shrouded in mystery. Consultation with the chief is not required on the assumption that the Local Government (Urban areas) Act does not provide for or recognize the role of traditional leaders in land matters. The process goes through the city council even though the council authorities do not exercise effective control over that land. The councils lack legitimacy given that for a decade now there have been no elected councillors as the law provides for. The system is crippled rendering itself to some significant open abuses and non-compliance with the land law and formal legal procedures.

Conclusion

The exclusion of men in uxorilocal and women in virilocal marriage arrangements on one hand and of the strangers unrelated to original settlers even by marriage on the other hand suggests that from the point of view of the villagers peri-urban land transactions ought to follow family based or related land ties premised on matrilineal descent. This tendency exacerbates land relations of those not related that way. The significance of kinship and social obligation calls into question any biases towards modern and state institutions and constitutional arrangements that privilege national citizenship as the framework for access to land. The transactions are ambiguous even though it is now acceptable practice to record the change in ownership by way of sale agreements. The sale agreement specifies the nature of the transaction as alienation of land by way of sale, not a lease or rent. This is at variance with the notion of non-alienability of land often associated with customary land tenure systems.

The practices examined in this chapter actually provide space for appreciating reciprocity, improvisation, change and also resistance in everyday life. Related to the question of paying signing fees, there is need to appreciate the symbolism behind the paying and taking of the signing fees. For instance, there is need to pay attention at how the giving and receiving of the signing fee as a social practice is packaged using the language of reciprocity. For instance, use of phrases such as ‘sugar money’ or sometimes ‘money for coco cola’ alongside more traditional phrase like giving a goat or a chicken. These terms suggest that the global and local are fused, where being local does not imply being traditional, timeless and unchangeable. The

symbolism implies that what is going on represents the articulation of the past and present. Further, the signing fee is negotiable. It is constituted by whatever the parties agree to or can get away with even though the fee is sometimes paid on demand and is sometimes resisted by under declaring the price. Moreover, besides the signing fee there are other benefits that traditional leaders derive, which in essence make the giving and taking of the signing fee more of a contextual than stand-alone benefit. Perhaps, the agency to give and receive suggests that social reality is constituted in practices. The question that lingers on is whether these routinized actions and relationships can be characterized as “custom” precisely because many of the routines and practices obviously do not have roots in the past. The social practices are in fact an outcome of the relationship of habitual iteration on the one hand and judgment and imagination on the other. Such routinisation of practices actually constitutes what is in everyday language understood as part and parcel of custom. On this account, it shows as mentioned earlier that as actors respond to changing conditions they must continually reconstruct their view of the past in an attempt to understand the causal conditioning of the emergent present, while also using this understanding to control and shape their responses in the rising future (see Emirbayer and Mische 1998: 968-9).

This could be the case if everyday life is regarded as a form of improvisation whereby actors operate in a forward thinking or strategic way, using their knowledge to pursue various interests (Wilk 1996). The interactions expressed in the course of preparing sale agreements, paying and receiving signing fees and in the leasing of land manifest this tendency and actually suggest that while agency is in theory independent power of the actor, the relationship between the individual and structure is reciprocal and that the two are closely linked by flows of various actions and also pre-existing relations. Relations are created, recreated and changed in and through the land transactions. Yet, in a general sense, various emerging practices do not always fit neatly with perceptions of normality informed by some unchanging aspects of custom, thus creating possibilities for disputes. Interesting enough is the tendency, sometimes unintentional, to characterize emerging routines as ‘custom’ even as they do not have roots in the past. So the routinisation of practices makes such practices become custom. Writing on the actor perspective, Long (2001) talks about people improvising and experimenting with ‘old’ and ‘new’ elements and experiences, and reacting

situationally and imaginatively, consciously or otherwise, to the circumstances they encounter. The next chapter looks into disputes, and how the actors reconcile themselves to disputed situations in equally similar ways.

Peri-urban Land Disputes and Dispute Resolution

Introduction

The objective of this chapter is to demonstrate as already mentioned in the previous chapter that practices in peri-urban land transactions do not always fit neatly with perceptions of normality. As such there are several situations that culminate in disagreements and disputes. Parties to disputes either contest or defend particular actions on the basis of situationally relevant values, notions, expectations or norms. Sometimes parties to disputes maintain interest in preserving harmony even as they pursue conflicting strategies. The second part of this chapter turns to how the actors seek redress by appealing to third parties and to similar or different values, norms and institutions. Reflecting on the selling of peri-urban customary land as an arena for negotiating meanings through which various relations of dominance or subordination are also played, two questions are pertinent. First, what are the spheres or trouble spots within which disputes occur? This chapter shows that land disputes relate to or take forms of acts or just discourse about actions, which define contested ownership, saleability of land, boundary positions, payment arrangements and also alleged customary obligations of traditional leaders as described in the previous chapters. Second, when do disputants seek intervention of third parties, for example the village head, the chief, the district commissioner, the department of legal aid, or the police, thus bridging and articulating the customary (tradition) – state (modern) continuum. Taken together these two questions draw attention to land transactions as arena in which various past, present and potential future relations are eventually rehearsed, relayed and contested as well.

Land Disputes in Perspective

Ordinarily whenever various actors in peri-urban land transactions discuss the selling and buying of peri-urban land the phrase 'land issues are problematic' (*nkhani za malo zimavuta*) is often mentioned, which in essence

implies peri-urban land transactions are prone to disagreements, conflicts and disputes. The social complexity of peri-urban land transactions is sometimes magnified by claims, counter claims and beliefs like those on witchcraft by adding the phrases *zimallowa ufiti* (associated with sorcery) or *zimaphetsa* (lead to death). Those who appear to provoke others are scornfully and out of spite referred to as difficult and sometimes as a sorcerer (*mfiti*). Such use of the term sorcerer even as a joking insult has been problematic at times.¹²¹

From the narratives recounted in this chapter land disputes are to be read as “trouble cases” (Gluckman 1965:173) and the existence of a dispute over a piece of land is rightly considered “destructive information” (Goffman 1959: 141). Quite often land disputes revolve around norms and rights intertwined with family and descent relations, traditional beliefs and politics of power and rank already referred to in the previous chapter. In most peri-urban villages, including all the five the villages where I interviewed village headmen, there is a general perception that disputes over land are on the increase. The general view is that in the past most of the complaints brought before the village headman’s or headwoman’s courtyard (*bwalo*) used to be marital disputes.¹²² Land disputes are not just becoming common, but more often more difficult to resolve given that sometimes parties in land disputes take unwavering if not militant positions, and some of the arguments advance in such disputes are often based on oral testimony whose veracity might be difficult to establish. The animosities arising in relation to land disagreements have long lasting consequences on social fabric. As William Donner writing in the context of Polynesia observed, “The Sikaiana disagree about legends concerning their atoll’s original settlement and subsequent distributions of land rights; they disagree about principles and evidence governing the

¹²¹ Writing on ‘witchcraft suppression practices and movements’, Maia Green observes that in Malawi in the early 1960s the anti-witchcraft specialists were part of the strategic bid by chiefs who defined themselves as ‘traditionalists’ to embarrass and discredit progressive opponents of Dr. Banda’s claim to power (Green 2003: 124). In the present, accusations of this nature lead to violent destruction of property of the accused.

¹²² T/A Machinjiri of Blantyre is reported in the print media suggesting that land disputes are prevalent and they involved village headmen who act as witness when selling or gifting land. See Martha Sande’s article titled, ‘Mikangano ya malo ikuchuluka’ (disputes over land are on the increase), *Weekend Nation*, 10 December 2010. Also, Jul-Larson and Mvula (2007) identified approximately 120 court cases in three Magistrates’ Courts in two districts of Mangochi and Thyolo in southern Malawi. Wehrmann (2002) observed that in Ghana there were at one time close to 60,000 unsolved land disputes in Accra courts alone. Absence of dispute is worth mentioning in real estate advertisement.

acquisition of these rights; their discussions of land use are charged with emotion, and the resulting enmity and tension affect many of their relations” (Donner 1992:320). It is probably for similar reason that Frank Colombijn once wrote: “land ownership is as explosive as dynamite” (Colombijn 1992: 428).

On the basis of my fieldwork there are those trouble areas I will refer to as disagreements, which are mild or minor grievances of limited duration, and then those that are severe and serious, here referred to as ‘disputes’ proper. The line separating disagreements and disputes is very thin and this distinction is one of degree rather than substance. This distinction is also a device for bringing order and meaning to seemingly chaotic and disordered processes and events that often arise in the course of land dispute.

Disputes require mediation by third parties, mainly the village head or chiefs above the rank of the village headman. In some cases the disputes are referred to state institutions dealing with law and order or dispute resolution, for instance, the courts of law, the department of legal aid and the police. This is not the trend in most disagreements, which are generally determined without making recourse to the *bwalo*. Disputes are then disagreements that have escalated into conflicts. The aggrieved party opts for confrontation with the offending party and remedy is sought through the intervention of some third party (cf. Roberts 2005). My analysis will take account of both disagreements and disputes and I will attempt to illustrate each category with every day experiences. The intention is not simply to catalogue the disputed situations, but to show how the actors within specific socio-cultural and historical context negotiate difference in multiple ways. As Roberts (2005) further writes, disputes require third parties or adjudicating body, but the character of the third party varies according to the complexity of the situation and to the strategies of the disputants.

This chapter will link disputes to norms within a changing social context that also continues to attribute land use rights to lineage or descent groups and to village headmen and chiefs in a manner that does not take full account of the changes happening to these institutions. Despite that currently anthropologists consider issues of descent, filiation, kinship and inheritance of less importance, in part because modernization, globalization and ongoing cultural change present different issues for study (cf. Donner 1992), kinship, lineage and chieftainship shape forms of social organization, access, and

transfer of land in Malawi and so remain important in the everyday life of many people in the peri-urban villages.

Land Disagreements

Land disagreements are in essence grievances or minor disputes. As Richard Roberts writes on African disputes and colonial courts in the French Soudan (or Sudan), disagreements or grievances are essentially a pre-conflict stage that can move toward resolution by avoidance, apology, sublimation, or various forms of “off-stage” expressions of resentment (Roberts 2005). Hence disagreements have the advantage of clearing up confusions about vague or inconsistent claims to land. As village headman Mphwere put it with reference to one, “I am happy when people are able to sit down, talk and resolve some of these issues among themselves without recourse to the *bwalo*. It shows that my subjects are eventually becoming tolerant and mature.” I think that such grievances, as I will show below, are resolved without engaging the *bwalo* because they are sporadic and not of serious consequence, though it might also be true that parties to disagreements sometimes manifest rare spirit of compromise than one would often associate with the violence that accompanies land disputes in other circumstances.

To begin with many transactions involve disagreements given that ownership issues in customary land are sometimes ill-defined and contestable. Lack of written records, though written records are not a deterrent to disputes in all situations; seem to be a catalyst for some misunderstandings. Despite the transformations toward more individualized ownership of customary land, ownership tends to be expressed and shared in terms that are not as explicit. The family unit is often defined loosely leading to ambiguous situations. One of the issues is designation of parallel cousins as brothers or sisters. The other instance is share usage of land or rights over certain aspects of land use. Here reference could be made to the position of fruit and non-fruit trees, whose use rights, other than those over the land, might extend beyond the nuclear family. A point to be emphasized is that the ambiguity is more apparent in some situations than others.

Except where there is a crop of maize, when selling peri-urban land the villagers often claim that they are selling the bare fields and not what is on it. In this sense the decision to sell land is subject to disagreements, sometimes related to the existence of tree crops on the land, for which ownership claims

might have to be decided decisively before any decision to sell it is finalized. In many cases when villagers are selling land they often cut down the trees on the land or sometimes insist on entering into a separate arrangement with the buyers for the trees, especially if the trees are planted trees. For instance, when Njomba decided to sell his land at K850, 000.00 he suggested that he might have to remove the bricks of his house that had no roof. He also suggested that the mango and the lemon trees on the land will have to be paid for separately or he would retain ownership over the trees even after selling the land. In another transaction, while the seller owned the land and could thus sell it, there were some trees that belonged to her extended family. Before she could dispose of the land she had to cut down the trees, which included two mango trees and several blue gum trees that functioned as boundary markers. Removing the trees was not just about cutting down the stems, but also uprooting the stumps so that the cut trees would not sprout again. Apparently, the trees were planted by the seller's grandparents. While she retained and therefore often claimed some exclusive use rights over the field, which included the right to sell it at that moment, rights over the trees were more diffused among the members of her extended family on the basis of common ancestry or genealogy. Another incident that typifies this relationship relates to the sale agreement that was cancelled and money paid back to the buyer apparently because the seller insisted on using the land for one more year even after receiving the full payment. The seller had already tilled the land prior to selling it. From the seller's point of view the price paid for it did not include the cost of tilling, and so he insisted that he was entitled to grow maize on the land for that particular year. The buyer did not agree and so the agreement was later cancelled.

Other points of disagreement are determination of the boundaries, mode of payment and sometimes rights to road access, where there is no motorable road or where existing earth roads are claimed as private roads by those who opened up access or paid some money for the land on which the road is. To begin with, villagers define land boundaries in different ways and have used different ways of establishing and maintaining them. Boundary issues can be treated as disagreement where the parties to the boundary agree to contain the disagreement or to deal with it from a stand point of compromise, without recourse to the *bwalo*. I will dwell on four scenarios where a boundary issue was decided by avoidance, compromise or consensus and off-stage resentment. In one situation the disagreement related to straightening

the boundary where one of the parties after some bickering and backbiting ceded part of her land. The parties reached a solution easily because the seller was closely related to the woman (matrilateral parallel cousin) who accepted to cede part of her land. The process was also facilitated by the fact that the woman ceding part of her land was also one of the witnesses for the seller. In that sense she was a beneficiary in the transaction as pointed out in the previous chapter in relation to the role of witness in sale agreements. In another case, the visible boundaries of two land parcels consisted of a gully that served as a drainage channel or water way during the rainy season, and it appeared that it might be becoming wider and deeper with time, thereby becoming more marked and unambiguous. There is one big blue gum tree by the gully on the outer box ridge of one of the two land parcels. The blue gum tree appeared, at least initially, as not part of the boundary formation. However, it emerged that the tree belongs to the owner of the garden on the other side of the gully. Actually what had changed was the position of the gully. The owners of the two parcels knew the situation quite well and they lived with it with little concern that it may become a cause of disagreement. It became an issue when the owner of the land on which the blue gum tree stands decided to sell his land.¹²³ These two observations emphasize that boundaries of land are subjective experiences.

In many cases peri-urban land transactions do not involve mapping of the land in the formal sense. Instead, the sellers, the buyers, the village headman and the witnesses walk around the land, often pointing at the notable markers representing the outer limits of the land involved in the transaction. Sometimes people who own or use the neighbouring fields are invited to confirm the boundaries. Only those people who have lived with the boundaries are better placed to define the actual boundary positions without difficult and sometimes after negotiating conflicting perspectives. I will illustrate the difficulties of defining boundary positions by drawing on the proceedings of an event of fixing the boundary that I encountered once.

Seller: Let us start from this point. From here the boundary follows this ridge, but there it turns to the left.

¹²³ Jomo Kenyatta once noted that one of the most important factors about the ownership of land in pre-colonial times was the ceremony of making the boundary. However, the actual position of boundaries assumed precedence the time when absolute sale of land took place (Kenyatta 1971: 37).

Estate agent: But you told me last time I was here that this land includes those two ridges? Here you can see there is an old foundation for the old house.

Buyer: You mean over there where that chicken is?

Seller: Yes, but a little bit this side.

Buyer: Probably we should walk all around to fix all the boundary positions!

Seller: Ok! From this point the boundary follows this line of hedges.

Buyer: You mean this hedge or the one behind it?

Seller: Yes! This hedge.

Estate agent: So, is the boundary on this hedge or between the two hedges?

Seller: Yes, the hedge is the boundary.

Buyer: But here there is no marker. How do you ascertain the boundary?

Seller: That is not a problem. From here going that side this strip of land belongs to the owner of that house.

Estate agent: Please take care, there is *chitedze* (buffalo beans, itchy plants).

Buyer: What about here, is the boundary the hedge or not?

Seller: Yes, but the hedge is not part of my land, it belongs to the other person

Buyer: What about here?

Seller: That portion of land belongs to another family. But over there the boundary turns left and then right, then straight to that electricity pole.

Buyer: So from the hedge the boundary goes straight to that pole?

Seller: Yes, from there it is straight up to that point, and then it turns to the left again.

Buyer: From that hedge?

Seller: No! This is where we have to turn left, then go straight into this direction and then turn straight to where we started from.

At the end of the process the actors seemed to agree that fixing the boundary in this situation would be problematic, especially if not predefined before paying for the land, and also in consultation with the village headman and other parties to the boundary formation.

Boundaries that appear well defined and unmistakable tend to be the most contentious. This is apparent in the incident related to the position of

the footpath separating two fields and another one on the position of a stream that I will describe later on. With respect to the boundary relating to the position of a footpath, the boundary between certain two parcels of land is a very busy footpath that links two neighbouring villages. For these reasons the ambiguity of this boundary was debatable given also that as a busy footpath, its position is clearly visible. For a long time the actual position of the footpath did not matter. When one of the two parties decided to sell his land, the owner of the other parcel of land felt that the position of the footpath should be rectified or settled before the other parcel of land is transferred to the new owner. While the owner of the parcel that was being sold argued that the footpath has always been the boundary and should remain as such, the owner of the other parcel claimed that over the last couple of years the position of the footpath had been shifting towards the direction of her field. Since the two owners were known to each other and were thus related by long acquaintance, and not by descent, she claimed that connection made her tolerate the situation over the shifting boundary. Given that the status or ownership of the opposite parcel was to change she decided that the situation should be rectified by reverting to original boundary position. She based her claim on undisputed position of one dead tree stump as the undisputed boundary post. This meant shifting the footpath into the other direction by a space of two to three ridges or roughly by almost 1.5 meters. Although the issue took the form of confrontation, given that one of the parties decided to change the boundary unilaterally, and coincidentally the village headman was passing by on the day of confrontation, the other party avoided open confrontation by accepting to give up part of her land, ostensibly to avoid escalating the disagreement. Related to this disagreement is the incident involving land Njewa was to help resell. A foundation for the brick wall fence was allegedly made about 0.5 m into the neighbouring land. The owner of the neighbouring land also insisted that the situation should be rectified before the other land was sold.

Sometimes boundary disagreements are pre-meditated by the aggressor and in such situations apology is the main way of avoiding escalation of the disagreement. The importance of apology in deescalating disagreements emerged in relation to the chance encounter with one young man I met at one grocery store. When I entered the store I found the owner of the store, whom I had met several times before, chatting with the young man who appeared to be a few years younger than the grocery store owner. In their

conversation the young man addressed the shop owner as *malume* (uncle), which initially meant they are in an uncle – nephew relationship, but later I learnt that it was just a matter of respect. He observed that one of his neighbours encroached onto his land in the process grabbing a few ridges. As he put it, the offending party had done that to enlarge his garden so that he could then sell it easily at a higher price. Apparently, this was not the first time for the offending party to encroach into a neighbour's field. The youngman's question to the shop owner was- what is your advice? The shop owner in reply advised him to plant a hedge along the boundary. In that sense should the other person overstep the boundary for the third time, thereby chopping or uprooting the hedge, it would be a more serious dispute of malicious damage that could be handled by the police or the courts of law, and monetary compensation could be granted. At this point I learned that the grocery owner and the young man are not related to each other, but mere close associates. Later on, I discovered that initially this young man reported the matter to the police, where he was advised to take the matter to the *bwalo* of the village headman. But before the *bwalo* could meet the offending party apologized and withdrew from the contested portion and so the matter closed. It is in this context that advice by the grocery owner to plant hedge in anticipation of charges of malicious damage makes sense.

These incidences suggest that boundary positions are critical when one of the parties to a boundary position intends to sell his or her land. The ideal is to make the boundaries explicit as possible. Given the social and historical relations that are part of boundary formation, maintaining the boundaries dispute free is always a challenge. One urban estate agent observed that the challenge with peri-urban land transactions is that chances are high that one might give away part of his land or have part of his land taken away by others. As boundary disagreements are on the increase there is a proliferation of the use of beacons (corner stones). The beacons take different forms. Some are made of metal pegs and concrete (figure 6.1), while others are simply short brick pillars and sometimes walls (figure 6.2). Some concrete beacons bear the date and initials of the person laying the beacon or those of the owner of the land. Most of the beacons are extra-legal given that they are often erected by the buyers themselves, estate agents and low ranking civil servants on private arrangements, who are not registered as surveyors. The use of beacons implicitly draws on the understanding that if there are beacons there is a title holder. As Blessings, one of the urban estate agent

also put it, “You need to ask how come there are already these beacons. If there are beacons, just know that the land has documents, if there are no beacons then there could be no documents for that land.” The assumption is that beacons, temporary or permanent, formal or informal and legal or illegal, help define boundaries and so secure the land from boundary disputes. Instead of beacons, other land owners plant trees around the land at certain intervals. The common tree species planted as boundary marker are blue gum and acacia. Most of the blue gum trees in the peri-urban villages were planted in the late 1980s and early 1990s as part of the national tree planting exercise dubbed ‘make Malawi green’ that was sponsored by Carlsberg breweries. Then, one bottle top of Carlsberg green beer could be exchanged for two seedlings of blue gum or other exotic tree species.¹²⁴



Figure 6.1 Concrete beacons

¹²⁴ The planting of blue gum is now discouraged because of the science based evidence that it contributes to depletion of underground water.



Figure 6.2 Short brick wall and footpath

Besides disagreements over boundaries, there are also disagreements over the mode of payment for land. Sometimes such disagreements occur between members of the family unit selling the land and the buyer over payments by way of instalment. Although most of the payments for land are by instalment, often the issue is how much should be paid as the first instalment and the length of the payment period. While in many transactions the first instalment is at least half or 50 per cent of the price, there are several transactions where the buyer would pay less. Subsequent instalments follow in small amounts that cause discomfort to the seller. Also related to the payment is a question of whether payment should be in cash or exchange for some other good of 'equivalent' value. Sometimes parcels of land are sold twice due to reasons related to delays over payment of the balance.

How the buyers and sellers on one hand and the village headmen on the other relate with respect to the signing fee is also another potential area of disagreement. Often the sellers and buyers complained about village headmen seeking to 'eat' more money as already described in the previous chapter. Despite this concern many of the sellers and buyers are relatively willing to pay the village headmen and have the sale agreements legitimized. There are some cases where the village headman is ignored and the village headman would not take that lightly. In such situations the village headman would normally approach one of the parties, especially the sellers. Sometimes the village headman would opt for off-stage expression of resentment or confront the land buyer. For instance, in one of the transactions the village headman approached the buyer to inquire on why he was building a fence over a portion of his neighbour's land. The buyer lied that he was given that portion of land as a gift by the owner who lives next door and is an old time friend to his (the buyer's) deceased father. Yet, the transaction involved exchange of money and the village headman was tipped. The village headman observed that since the transaction was concealed, that way depriving him of the signing fee, he might not assist the buyer or his tenants in the event of need, which ultimately means in case of death. This threat relates to the place of traditional leaders in organizing funeral ceremonies and controlling access to graveyards as describe later on in chapter 8.

One of the most problematic forms of disagreement relate to *mseu* (road access). As it often happens, sometimes the road has to be 'bought' and this depends on the availability of space and the willingness of the owners of neighbouring parcels to let go, in exchange for money, part of their land. Often the amount of money asked in return for space for the road access tends to be high and sometimes speculative. One of the incidents encountered relates to the woman who asked a family that acquired land recently to pay K130, 000.00 for a strip of land that could accommodate the access road through her field. After a protracted negotiation she reduced the price to K100, 000.00, which the buyer considered still prohibitive. Sometimes the price of land includes *mseu*. But in many transactions this is rarely stated explicitly or where it is mentioned it is rarely upheld. In one transaction the issue of access road was part of the pricing of land and it happened that the seller is related to the group village headman and had her brother around as the contact person. It appears the decision to sell the land with road access was prompted by experiences of having to intervene in

protracted disagreements, where one party ends up buying at high cost a strip of land for road access. As Salima (brother to the seller and also a local estate agent) put it, "I am selling both the land and *mseu*; I will make the road myself. I have to do it now to avoid putting you in awkward situation, where you might be required to pay again for the road." Then, observing that sometimes a small strip of land, big enough for the road only, costs as much as buying a medium size land, Salima added that "Yes, that is how it is often done. It is done like that. It is like a fine. You have done well to raise it now."

Sometimes sellers make promises that they will open up road access, but they come back to claim that the price did not include the cost of space for the road. The question of road access becomes more difficult where existing roads are sometimes closed to other users. Some people out of spite either block or close existing roads or ask those seeking the road opened to buy helicopters by which they can access their land or plots without having to beg or bother others. Closing a road is a way of forcing people building or intending to build houses on land beyond the motorable points to negotiate for access. In principle, the one who pays for such road access becomes the owner of that portion of the road. Later on whoever might want to use it afterwards is oftentimes expected to pay some money.

Disagreements about road access arise because the parcels or fields in question are not surveyed, not on a layout plan and there is no competent authority with adequate capacity to regulate the provision of roads and other complementary services. Those buying land have to use existing footpaths and earth roads or make some for their own use. For new comers the question becomes one of negotiating with 'owners' of existing or 'private' roads or those owning adjacent parcels of land to provide space for road access. Given the difficulties associated with road access, and the monetization of land, some village headmen are sometimes keen to find out if the parties to a land transaction have already made arrangements on road access. As one of the village headmen observed: "We have had numerous disagreements of this nature. Now, when inspecting land we ask the seller and the buyer to show us where the road will be. We insist on this aspect as a precautionary measure. Whenever parties cannot agree they often ask the village headman to intervene." Yet village headmen are not always neutral arbiters in such disputes because they seek and often succeed by benefitting materially from disputes of this and any nature.

Land Disputes

Disputes may exist at the level of ideas or notions and practices. Disputes may also occur before or after the transaction. For those disputes that arise before the transaction, in many cases the cause is disagreement over the ownership of land or over who has at the level of ideas rights to dispose the land. Such disputes involve members of the same kin group and sometimes occur between original settlers and strangers. I will look into disputes between buyers and families of sellers and disputes that relate to breakdown of consensus or compromise and the social reproduction of the family. There are also disputes among buyers; usually over boundary positions.

Disputes Involving Strangers

The tendency of *mbadwa* to claim land offered as gift to *obwera* in the past is a rising concern and many participants suggested that such claims are recipe for disputes, given that such claims are sometimes encouraged by village headmen. In one of my interviews with Mbewe he observed that: “The village headman told me that if I were to find time to be with him he could brief me on all the land that belongs to my lineage, but it is currently being used by other families. When that is done, the families cultivating those gardens will be advised to continue using the land, but if they would wish to sell, I would be the one to receive the money.” Mbewe suggested that given that land is now wealth, a direct source of money, he would soon pursue that offer or option. Encouraged by such support, young men and also young women are eventually reclaiming land formerly cleared and used by their grandparents, even when the facts of the transfers are sometimes imprecise.¹²⁵

Sometimes ‘*obwera*’ have sold off land and relocated without taking leave of the host. One typical case in Jekete village involved a couple who acquired land some years back by begging. They built a house in which they lived for a short while. Later on the husband became sick and died. The widow sensing that she might lose the land as it happened to one other family that acquired

¹²⁵ Tiffany (1981/1982) writing about the Polynesia argues that even when the customary principle is agreed upon, such as the first settler’s right to claim land, disputants can still dispute the identity of the first settler and whether he was only using the land with permission of other ‘true’ owners.

land in the same way from the same donor family (for which the details are provided under dispute resolution on the basis of customary practices), decided to sell off the land and left the village without informing the family that provided the land. The family that provided the land became bitter that she acted that way. They felt restrained to challenge the buyer due to internal squabbles that followed the disposal of land reclaimed from the other family. In a related incident, another woman known as Anambewe decided to sale land at the price of K400, 000.00. The village headman rejected the transaction on the pretext that Anambewe is a stranger in the village. The neighbours to Anambewe claimed *mbadwa* and by right of custom owned the land. Anambewe's parents acquired the land by 'begging' some 40 to 50 years earlier. They referred to the fact that Anambewe is a native ChiYao speaker in a Mang'anja village, which to them is clear testimony that Anambewe and her family are unmistakable strangers. The irony, mentioned already in chapter 3, in many villages of southern Malawi and the peri-urban Blantyre in particular, there are four or more ethnic groups living side by side. Also, the ambiguity of such claims is that the possession of a garden in a particular village is not subject to residence in that village or allegiance to its headman, and in some cases the possibility that land might have been transferred upon exchange of 'valuable' commodities is missed since land relations are now framed in terms of immediate monetary gains. Later on Anambewe convinced the group village headman to plead with her village headman. When the transaction was completed the village headman received K5, 000.00 as his signing fee, while the group village headman received K10, 000.00.

In essence, although *obwera* are constrained from selling land, there are situations where the incoherence of the conditions under which the land was initially allocated makes it difficult for *mbadwa* to enforce residual rights. I will illustrate this dimension by drawing on the dispute involving the selling of land in Mphwere village formerly owned by an elderly man who passed away some years ago. The old man, here named Chisale, came from the neighbouring village of Jekete. Chisale 'asked' for and was granted land in Mphwere village by his friend by the name of Zikwamba. Then, both Chisale and Zikwamba were migrant workers in Southern Rhodesia (now Zimbabwe). Chisale built a house on the 'gifted' land, where for some time he lived alone during his holidays from work in Southern Rhodesia. Later on he settled down and married a woman from within Mphwere village, who

then joined him. When Chisale died, without a child of his own several years after the death of Zikwamba, elders decided that Chisale's wife should continue living on the land on condition that she would have user rights only, while 'ownership' transferred to Chisale's matrilineal kin in Jekete village. A point to be reiterated is that many members of Jekete village have gardens in Mphwere village. A few years later, members of another family unrelated to Zikwamba, here known as Chemusa family from within Mphwere village, started pestering Chisale's widow to leave the land, arguing that initially that land belonged to their grandparents. Chisale's widow left the land, but it was Chisale's matrilineal kin in Jekete village who possessed it. A short time later one of the matrilineal kin of Chisale, here known as Matemba, sold the land at the price of K450, 000.00. Matemba retained all the money, and it is alleged that he used part of the money to buy a lorry and some corrugated iron sheets for his new house. The village headman Mphwere signed the sale agreement, and to him the transaction was fault free as he claimed to know both Chisale and Zikwamba as respectable return migrants who were among the first people in the village to build 'better' houses. The selling of this land irked members of the Chemusa family who claimed having legitimate interests as original settlers. The members of the Chemusa family started to put pressure on the buyer to leave the land on the grounds that the land belongs to them. When the matter was brought before the village headman, the village headman decided in favour of the buyer, arguing that Matemba owned the land and could sell it. On appeal, the group village headman (GVH) upheld the decision of the village headman. On further appeal to the traditional authority (T/A), the chief endorsed the decision of the lower level traditional leaders. The Chemusa family threatened to take the matter to court, but as I left the field some months later, I never heard about any court proceedings on the matter. When I asked the chief what went wrong, his reply was "I knew they (Chemusa family) could not go any further." Talking to Chitsenga who is one of the matrilineal kin of Chisale and Matemba, it appears that the Chemusa family has correct facts, but they were not forceful enough to have the decision in their favour. The village headman himself happened to be beneficiary in the transaction. In my interaction with the village headman I learned that in his view the arrangement between Zikwamba and Chisale took place many years back, probably in the 1950s, and no one living now could claim to know exactly the terms upon which the two agreed on with respect to this land. To some

degree this dispute suggests that some of the disputes related to strangers are rooted in social processes lost in the mist of time, some of which are suppressed by the vested interests of stronger parties.¹²⁶

Lack of Consultation, Consensus and the Social Reproduction of kin-based relations

Some disputes arise due to lack of consultation and consensus. For instance, Chitseko invited me to his home. He showed me around his family land. There are two 'better' houses built on a similar plan. For both houses, the inside and outside walls are painted white. Both have corrugated iron sheet roofs and concrete floors. Both houses were built by his parents, who passed away some years back. The first house was built in the 1960s and initially had a grass thatched roof. It is close to the earth road that connects Chikowa village to the tarmac road linking Blantyre city and the airport. Behind the second house that was built in the mid-1980s to accommodate as Chitseko put it, his parents' many children; there is another small house that belongs to Chitseko's grandmother. Next to it is a new big urban style house under construction on land sold by Chitseko's aunt (mother's sister) to one of Malawi's prolific national football team players based in South Africa. Chitseko drew my attention to the pile of bricks on the far end of what I thought was the boundary of his family's homestead. Yet, his family's land extends to the big blue gum tree some 40 meters beyond that heap of bricks. The land between the pile of bricks and the blue gum tree belongs to his family, although one of his brothers living within the village sold it to Mr. Yotamu a year earlier and he did not bother to share the money with Chitseko and the other members of their family. Other members of Chitseko's family were then bitter and they decided that Mr. Yotamu should be refunded his money. The seller in this case spent all the money by himself and so it was agreed that the refund would be made by Chitseko's other brother, who is currently living and working in Lilongwe. Without informing anyone around in the village Chitseko's brother who is based in Lilongwe

¹²⁶ In a critique to the use of case studies in legal anthropology, Gluckman (1973:636) as cited in Mills (2005:140) observed that "if the study of disputes is erected it can be as stultifying as the reporting of rules on their own. Disputes illuminate social process, but disputes cannot be understood without knowledge of social process." See Gluckman, M (1973) "Limitations of the Case-Method in the Study of Tribal Law", *Law and Society Review* 7, no. 4: 611 – 642.

agreed with Mr. Yotamu that instead of the refund he (Mr. Yotamu) should possess another piece of land on the other side of the earth road. At this point Mr. Yotamu started building what he plans to be a lodge. However, the land Mr. Yotamu got, instead of the one he paid for, was sold a couple of years before to another person (who was not using it) by another brother to Chitseko who is now dead. Chitseko went to the village headman for intervention. The village headman happened to be the principal witness when both plots were sold initially. The wish was to stop Mr. Yotamu from building on land he did not pay for. Yet, the village headman decided that no action should be taken until the other buyer shows up in the village with a complaint. Then, the elder brother to Chitseko will have to handle the issues related to refund, or else Chitseko's family will have to allocate the other buyer another piece of land as described in some detail later on in relation to double selling of land.

There are several disputes involving nephews or other relatives of the land seller disputing a transaction after the death of a seller and usually on the premise that they were not properly consulted or that then there was no consensus at the point of sale. One such dispute occurred in Mzara village. A few months after the death of the seller, some of his nephews (children of his sisters) stopped the buyer from proceeding with the construction work he had initiated on the land. Then the buyer complained to village headman. The village headman summoned the members of the deceased seller's family and all those who played the role of witness, one of which was Chitseko in the capacity of local estate agents. The buyer produced his copy of the sale agreement. The village headman decided the dispute in favour of the buyer. This dispute highlights the importance of sale agreements, and like the one above, the importance of effective consultation among members of the family of the seller. Yet, as Rakodi (2007) also suggests on the basis of experiences in Enugu (Nigeria), in many cases consultations within the family precede the sale of land, where these have not occurred (and sometimes even if they have), challenges from family members may arise at a later date.

Similar situations have also been reported in other parts of the world. I will cite a few situations.

First, Mayer (2002) writing about the Peruvian Andean communities observes that rights to sell land are restricted. Yet, when a farmer decides to sell a plot, the norm is first to offer it to close relatives. If interested buyers cannot be found from within the members of the kin group, the seller can

offer it to relatives by marriage or to any nonrelated community member. What is particular about this case is that the seller and his relatives are required to renounce in writing any future claim on the land.¹²⁷ A different case that emphasize the importance of sale agreements is one provided by Christian Lund for Burkina Faso, which suggests that land which has been sold is gone for good and unrecoverable “as a goat sold in the market place” (Lund 1999:579). Yet, as Lund also suggests, partly because such sales are not recorded, there is often doubt as to whether a particular piece of land was actually sold, leading in some cases to the selling of the same piece of land more than once. This account also suggests, as Janine Ubink once observed in the context of an Ashanti village (Ghana) that buying land from someone whose authority to sale is questioned runs a real risk for the buyer of losing part or all of the land (Ubink 2008:279).

In peri-urban Blantyre, although the practice of selling land is established and it is often accompanied by written sale agreements, sometimes disputes involving the buyers and the sellers or members of the sellers’ family arise from the breakdown in trust that buyers have in the sellers. In some cases some buyers allow the sellers to continue using the land after payment has been made, up until the buyer is ready to start building on it. After several years or seasons of using the land, the sellers or their kin begin to think that the land is their own, and sometimes begin to question the validity or even the legitimacy of the transaction. In cases where there is no communication with the buyer, the sellers may speculate that the buyer forgot about the land or probably passed away, a possibility that is often rationalized by references to high mortality rates since the advent of HIV/AIDS. Sometimes seller may consider selling the land for the second time.¹²⁸ The real challenge emerges with prolonged use after selling the land and more also when those who received the payment and signed the sale agreement, for instance, when the seller and possibly the village headman have died. The seller’s relations would

¹²⁷ Mayer quoting a sale agreement write: “Present were for the party of the sellers, Dona X together with her sons in law, and for the part of the sellers, Don Y, .. I sell this land together with my sons-in-law and the executor of my will, and my descendants will not place any obstacle over this piece of land ...” (Mayer 2002:290).

¹²⁸ T/A Machinjiri in Blantyre and T/A Tsabango in Lilongwe are quoted as suggesting that crooks take advantage to resell land without following procedures when the buyer is taking long to start building on the land or when they hear that the buyer is dead. See Martha Sande article titled, ‘Mikangano ya malo ikuchuluka’ (disputes over land are rising), *Weekend Nation*, 10 December, 2010.

claim that the fact that they have been using the land is cause enough to resist claims by the buyer or claims by the buyer's relatives to take possession of the land. For this reason, local estate agents, village headmen and some buyers observed that some buyers error by allowing the sellers access to the land, even if it simply means doing *ganyu*. Such access defeats the spirit of selling or buying land, which is the alienation of land in perpetuity. In effect buying land entails paying for it, alienation for the seller and occupation of the land by the buyer, which may also entail leasing it or having beacons in place as already mentioned.

Similar disputes are further caused or compounded by splits within families, between the rights of sons and daughters or mothers over land as the extended family is gradually giving way to narrowly defined family units, which may not necessarily take the form of the nuclear family. One of the disputes that relate to these dynamics involved the man known here as Mangani, who bought land, as he put it, through the 'normal' channel. The normal channel implies going through the seller's family, have the village headman as one of the witnesses and also the written sale agreement. For this particular land transaction the witnesses were matrilineal uncles to the two parties. The position of the matrilineal uncle (brother to the mother) is an elevated one. The discussions concluding the transaction involved a visit to the field to define and demarcate boundaries. But, a year later a dispute erupted. The seller's sisters went to cultivate the land claiming that the land belongs to them following well known customary practices that limit transfers of land along the mother-daughter line. As Mangani put it, "the mistake I made was to allow them to cultivate the land during the first year following the purchase." Then Mangani approached the village headman who directed him to liaise with the *mwini mbumba* for the seller's family. The *mwini mbumba* advised Mangani to drag the women to the *bwalo* on the charge of encroaching on the land. When the matter was heard the women argued that they have children and so they need the land to feed their families. They pointed that when the land was sold they were not properly consulted, let alone given a portion of the money.

The seller, who is the brother to the women disputing the transaction, observed that there was no need to allocate his sister a portion of the money because they are married and that they have their own homes where they cook and eat with their husbands and children. Also, the seller happened to be an unmarried young man and he lives with his mother. The transaction

took place in the lean months when the seller needed money to buy food, which he ate with his mother. A point to be emphasized is that food production and consumption takes place in a household unit (*banja*), “a notion deceptively reminiscent of the nuclear family” (Englund 2008:40). Then, the seller’s sisters had some food (maize), but they were reluctant to share with him and his mother. Hence, the demise of the spirit of food sharing and the monetization of relationships place great strains on interaction between family members, however that is defined. On the request that the buyer should give up the land so that they could continue cultivating it, the disputants were asked by the village headman to refund Mangani the money he paid for it. They failed to raise the required amount. Refunding the buyer could have looked like buying off the land from the mother or the brother, which is not supported by any customs (*miyambo*). While this dispute may appear to be over custom and how money received in land transactions is shared, the social reproduction of the family as a kin group, splits within families between daughters and mothers and between siblings, and the narrowing of lineages deserve emphasizing. Coincidentally, support or resistance to the commodification of land is often premised on the nature and ability of land to feed and sustain. For this reason, land may be classically a means of production, but it is also more meaningfully the essential means of social reproduction (cf. Perrotta 2000:174).

Double or Multiple Selling of Land

When the same parcel of land is sold to two or more people the argument is that the sellers are motivated by ‘greed’ or simply the love of money (*kukonda ndalama*). It is often described as an act of dishonesty since the seller receives payment twice for the same land. For instance, the seller may have sold land at K150, 000.00. After several years of continuing to use it or not, the price or exchange value of the land may have gone up to K500, 000.00. At this point the seller may claim back the land, arguing that there is no way one can buy that land at the price paid earlier. Such sellers would dismiss suggestions that at the time of selling the land the amount of money paid then could have been the appropriate price. While some of the disputes of this nature have been handled by the police as conduct likely to cause breach of peace, several others have been handled at village level. I will comment on two disputes, both of which occurred in Mzara village.

In the first dispute, the same parcel of land was sold to two people. The first person to buy it left it idle for several years as also mentioned in relation to the situation involving Chitseko's family in the previous section. The seller decided to resell it to another person who started building a house immediately after paying for it. The reselling of this land was overseen by the nephew of the village headman. When the person who bought the land in the first place heard about it, he went to claim his land. The village headman asked the family that sold the land to allocate the first buyer a different parcel of land. In the second dispute, a certain family had land which they intended to sell. Then, the husband was running a transportation business using their 7 ton Ford truck, while the wife was involved in cross border trade. They sold the land at K400, 000.00. The buyer paid half of the price, and the balance was to be paid after one month. The buyer did not show up to pay the balance. The seller sold the land to another person, but was reluctant to pay back the deposit paid by the first buyer as is normally the case in such situations. The village headman was not involved in any of these two transactions, and so he declined to take any role at this stage. The first buyer reported the matter to the police, who intervened by arresting the seller for breach of trust and conduct likely to cause breach of peace.

Disputes Related to Boundary Positions

In most situations land boundaries are clearly marked by trees, sisal, stone posts, or foot paths. Yet, even where the boundaries are physically demarcated and visible to the naked eye, there are instances when the exact position of the boundary is disputed, as already mentioned under disagreements. While the question of boundaries is a technical matter in formal land transactions, in the peri-urban land transactions the matter is cultural, and thus embedded in the understandings of boundary posts, what boundaries represent both in the material and symbolic senses. If owners of adjacent parcels of land cannot agree, boundary disputes emerge, and the issue drags on for some time than would be the case if the boundaries were mapped.¹²⁹

¹²⁹ Writing on Aboriginal concept of boundary J.K. Doolan suggests that boundary issues are difficult to define. In his view "matters such as factors creating boundaries, permeability of boundaries, maintenance of boundaries and changes in boundaries have been the subject of

While there are more disagreements about boundaries, few could merit to be categorized as disputes. Only one of the boundary incidents will be explored here. This dispute relates to two parcels of land separated by a stream. The stream is seasonal in the sense that it carries water during the rainy months only. In good rainfall years the flow of water would last as long as nine months from the end of November to July, but in poor rainfall years the period is shorter. While interviewing one of the local estate agents, four men aged over 55 years passed by. One of them, the oldest among them, had a crude walking stick and it was obvious that he was walking with difficulties. They were walking in a file with the oldest man among them trailing behind. The oldest man stopped for a while to talk to the person I was then interviewing. The last statement the old man made was in a form of question, 'do you know the man walking ahead of us?' After they had passed I asked my interviewee who the men were and where were they heading to. His reply was that they were going to the house a few hundred meters from where we were for the follow up hearing of a boundary dispute. Among the four were the village headman Chikowa (this incident occurred before my meeting with him), the group village headman for the area and two counsellors for village headman Chikowa.

The dispute is a protracted disagreement over the exact position of the boundary. The stream divides the two land parcels and for some time it was considered the natural boundary. One day one of the two land holders claimed a portion of land stretching to about three meters wide on the other side of the stream. He claimed that during the previous rainy season the stream changed its course, a situation that affected his land negatively. This was disputed by the other, and when the village headman was asked to mediate, it was observed that the stream had not changed its course. Then, it was decided that the boundary should be reinforced by planting some banana plants on the banks (edges) of the stream. After over half a year the person disputing the boundary unilaterally changed the boundary for the second time by uprooting the banana plants from the stream's banks and replanted them about two meters inside the land of the other person. In his view, planting the bananas on the banks of the stream did not change his resolve to have the three meter stretch across the stream. At this point the village

much discussion amongst anthropologists, and they are not in complete agreement with regard to the factors which determine boundaries" (Doolan 1979:161).

headman decided to have the matter taken up by the group village headman, who confirmed the decision arrived by the village headman that the boundary is the current course of the stream. Sensing that the problem is unlikely to end like that the other person hurriedly constructed a brick wall fence, which runs parallel to the stream. The planting of banana and building of brick wall fences have the function or mechanism of founding, organizing and articulating spaces (cf. de Certeau 1984: 123). What makes land along streams valuable is that the availability of water makes the land suitable for all year cultivation under irrigated conditions, and where the soils are good enough; it can also be used for brick making. Apparently, some people prefer making bricks on site for use in the construction of houses. Others make bricks for sale as already mentioned.

One important dimension about land tenure is that the rights and duties individuals have are subject to spatial limits. Crocombe (1974) suggests that spatial limits define the area dimension or the extent to which any right, duty, privilege, or disability applies. Apparently, area dimensions are defined in different societies with varying degrees of accuracy, by means of natural or artificial marks on the ground, in written records and unwritten traditions, and known cultural patterns. Boundaries are also determined by actual or potential competition between neighbouring individuals and groups. In Crocombe's view, the situation at any moment is the balance between the desire and ability to expand, and the wish and ability to defend as the next section on dispute resolution points out.

Disputes Resolution

Most land disputes are resolved at the village level and so customary dispute resolution mechanisms appear to be inherently tuned to the practices in peri-urban land transactions. Fewer disputes are referred to the non-customary dispute resolution institutions,¹³⁰ including the courts of law, the police, the legal aid department and non-governmental organisations (NGOs). Referring disputes to non-customary dispute resolution systems does not mean that what happens thereafter is devoid of custom. Unlike the Burkinabe land disputes studied by Lund (1999), where arbitration is by

¹³⁰ Marx and Royston (2007) writing on South Africa suggest that parties to land disputants seek redress by shifting from family to local neighbourhood social networks, which include the local councillor or municipal officials or the local *induna* in the tribal areas.

competing state institutions, the relations between state institutions and non-state institutions to be described in this section are relatively harmonious.¹³¹ However, transferring dispute from one realm into the other entails transposing norms and practices. My analysis of the role of the courts of law, the police and the NGOs is exploratory. It is based on my attempts to understand local level disputes by following up particular disputed instances.

Customary Practices

The primary means of dealing with disputes over land is avoidance of the situations that could lead to disputes. This is done by having the village headman and witnesses around when transacting land matters. This aspect gives prominence to the social and cultural embeddedness of the peri-urban land transactions. Some village headmen are so particular. As Dziko, one of the young men in Mwera village observed, the village headman for his village is particularly careful, if not tough, when handling land matters. Dziko noted that:

When any young person approaches the village headman on this matter, the village headman meets the parents or other senior relatives of the seller to find out if they are aware of any plan to sell the land. He does not accept short cuts. He signs the sale agreement upon being satisfied that the people that matter in the concerned family support the transaction. He signs when he is assured that doing so will not lead to disputes.

The role of the village headman, and by extension the basis of customary dispute resolution system, hinges on the desirability of avoiding open conflict by securing the integrity of the process through adequate consultation within the family selling the land. Consultation is a process of consensus building through which the family selling land also renews confidence in the legitimacy of the village headman, given that the position of village headman

¹³¹ There could be exceptions. Some chiefs have complained of interference by the courts of law in customary land matters and chieftainship issues in general. For example, in a televised speech on 6 June 2010 paramount chief Lundu made a similar complaint on the occasion of his 40th anniversary. He wondered at how a magistrate from the far north could adjudicate on land disputes in the far south.

is associated with land. In other words, it is only that person considered as the legitimate village headman who can ultimately legitimize or confer legitimacy to a land transaction. The legitimacy of the village head is not just reaffirmed, but also articulated to the person buying the land. Owing to this observation the importance of consensus is emphasized in most of the peri-urban villages. The village headman Chikowa also observed that:

The village headman does not sign the sale agreement when there are disputes. Here, the village headman comes last after the sellers and buyers have signed and also after confirming and being satisfied that there are no disputes. Whenever there are disputes I decline to sign. Often, I ask the seller and the buyer: Have you really reached agreement on this? Sometimes other family members come over to plead with me that I should not approve the selling of some land. In such situations I advise the seller and the buyer to give each other time to sort out the differences. The ideal is to avoid disputes.

In another village, the nephew to the village headman observed that as a family they would not wish to be seen as standing in the way of their people, but they would not also want to be associated with land disputes. As he put it: “No! We are not jealous of other people. What we normally do is to find out whether there is consensus at the family level. We normally confirm this by checking with the senior members of the family. The good thing is that we know all the families and those who can be trusted or not. We ask them whether they are in agreement. We ask each and every one present one after another. Usually we want to prevent the tendency of people coming to dispute the transaction after money has already changed hands.” This act of cross-checking is particularly urgent in situations where the person intending to sell land might not have undisputable rights in the land, as is the case of children or young men seeking to sell land belonging to their father’s lineage or as is the case of widows selling customary land in which the family of their late husbands might have some interests. Consultation with elders or other family members appears to be the norm and it is intended to establish the ‘root title’ (*umwini*) to land.¹³²

¹³² This aspect was described many years ago for east Africa by Krishan Maini as follows: “When land was sold a certain procedure had to be followed. This procedure took different form in different tribes. The formalities which took place when an interest of an owner was

Having established the root title and existence of consensus the village headman proceeds with the signing of the sale agreement and also the date stamping. Suffice to state that village headmen know that signing and stamping sale agreements, as already described in the previous chapter, place them in difficult situations in case there are land disputes. As another village headman observed: "We have had such cases for some time now. Some cases have gone as far as the *khoti* (chief court). The question has always been how you could sign the sale agreement without verifying that there is consensus. The issue has also been that we love money, and because of that we allow dubious transactions." It could be inferred that the position of village headman is intricately linked to disputes and how disputes are managed on the basis of customary dispute resolution.¹³³ The strength of this point is that, as also observed by Tiffany (1980) for Western Samoa; disputes over customary land are manifestations of more complex disagreements over kinship obligations and entitlements, as well as political and juridical prerogatives of traditional leaders whose titles are more or less linked to the land question.

When disputes occur the village headmen and headwomen would summon the disputants to the courtyard (*bwalo*) for a hearing of the arguments and facts pertaining to the dispute. Disputants are often accompanied by their wardens of the sorority and witnesses. With the help of advisors (*nduna*) decisions or judgments (*chigamulo*) may be passed on the strength of evidence, though to a large extent, the process takes the form of arbitration, with the village headman and his advisors interested in pointing out the recognized customs, but also the emerging practices. Part of the proceedings may take place on the disputed land. If one of the parties is not satisfied with the determination of the village headman, the matter is referred to the group village headman, and the process entails reviewing and weighing the evidence against the decision made on the first hearing. If one of the parties is not satisfied, the matter is referred further to the chief of the area, where the processes are repeated. Apparently, this is the highest level of

transferred singled out a sale from other transactions in land under East African customary law. ...The elders were represented at the ceremony of selling land, and they were asked whether the piece of land belonged to the transferor. Thus they helped in establishing 'root to title' (Maini 1967:10-11).

¹³³ Occurrence of disputes suggest as also observed in Gluckman (1956:2) that "conflicts are a part of social life and custom appears to exacerbate these conflicts; but in doing so custom also restrains the conflicts from destroying the wider social order."

dispute resolution under custom.¹³⁴ If one of the parties is not yet satisfied, the dispute can be referred to the district commissioner, who may upon examination refer parties back to the chief or to the courts of law.

The procedure under customary dispute resolution is very often consultative, except where the transaction leading to the dispute is alleged to have taken place without involving the village head. In such instances the village headman would refuse to hear or intervene. But, the village headman might be obliged to intervene if the complainant is the recognised owner of the land by inheritance or purchase. One of the disputes of this sort involved Mwanga, who has acquired several pieces of land. During my fieldwork Mwanga claimed ownership of an additional piece of land deemed to be belonging to another family.

For a couple of years Mwanga had been using on rent terms a field belonging to Chimwala. When Chimwala died, Mwanga claimed ownership of the land. He argued that Chimwala received the payment for it just before his death. The children of Chimwala disputed this claim arguing that he (Chimwala) could have informed them as he did with other transactions before that. There is no document to prove that the transaction actually took place. The village headman claims that he was not informed about it. Mwanga claims that the wife of Chimwala, who is no longer living in Chikowa village, was the only witness. When the widow of Chimwala was called to testify, her position was that she does not know anything about the claim by Mwanga. The village headman's decision is that the land belongs to the children of Chimwala. As the village headman put it during interview: "I told Mwanga that for this land I do not have any evidence that the transaction was properly carried out. But because I am the village headman and I am supposed to attend to whoever comes to me, if you wish I will refer you to the group village headman." When Mwanga asked for the referral letter, the village headman Chikowa agreed to write one, but before giving him the referral letter he (village headman) decided to phone the group village headman in order to ask for advice. This aspect illustrates how the mobile phone has penetrated and eventually become an intrinsic part of

¹³⁴ Also reported about Chiradzulu (Malawi) in Kambewa, D, Peters, P. and Berge, E. (n.d.) "Towards Tenure Security in Customary Land in Malawi: What do we know about matrilineal society?" <http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/6004/Kambewa%20IASC2008.pdf?sequence=1>

negotiations in everyday life in peri-urban Blantyre. One day in the afternoon while interviewing him (the village headman), a young man sent by Mwanga arrived to collect the referral letter. After the young man had left, he (village headman) observed with concern how difficult it is to deal with rich people:

Rich people (*anthu olemera*) are oppressing others here. Just imagine he is seeking to grab land from orphaned children (*ana a masiye*). He wants to grab land, yet, he knows well that he has no documents to back up his claim. He knows the practice in this village. For the land on which he has built his house, he has letters bearing my signature and my thumb print. He has built a fence all around the land. Now he thinks that since he has money he can deprive these children of their father's land. The disputed land is not within his fence.

Then, he added that some rich people have the tendency of threatening to refer disputes of any nature to lawyers. As he put it, such people wish to rob the poor (*wosauka*) of their land through some lawyers or courts of law.

To argue that the process just described above is customary or traditional in orientation does not imply endorsement of the process as 'old' and unchanging. As observed by Gluckman (1969), Lawson (1997), Cotula (2007), among others, customary notions, processes and laws are changing and they were subject to constant change in the past. Currently, there are attempts by the state to refine customary processes of dispute resolution. One such attempt is the decision by the state to improve on record keeping of disputes by issuing the village headmen case record books. Yet, the case record books are not used as expected. In Jekete village, the last time the case book was used was in 2006. This is also the year during which the case record books were distributed and also the year some of the village headmen acquired date stamps. In that year three disputes were recorded and one of the three disputes involved land. This land dispute was brought before the village headman by Nabanda of Chikowa village, who had acquired land from the defendant known here as Nankhoma of Jekete village. The dispute, as recorded in the case record book, pertains to disharmony over the purchased land (*Zinthu ndi kusagwirizana pa malo ogulitsidwa*). On hearing the dispute, it is recorded that the village headman asked the buyer (complainant) to discontinue any work on the land until the dispute is resolved. Resolving the dispute entailed the village headman, the buyer and seller visiting the land

in dispute to inspect and confirm the boundaries to avoid further disputes.¹³⁵ The final decision reads “*Ogula malowo ndi ogulitsa malo, ayenera kukhala ogwirizana ndi kumvetsetsana ngati patakhalakuti papezeka zovuta zina*” (the one buying the land and the seller of the land should live in harmony and exercise tolerance in case there are further disagreements). As it is often the practice in sale agreements, the decision reached at this stage of dispute resolution was affirmed by signatures of the buyer and the seller and their witnesses. The secretary and chairman (village headman) also signed. What is evident in this matter and others brought before village headmen is that the ideal is to help resolve the matter by seeking consensus and sometimes compromise, rather than dwelling on finding out and punishing the wrong party, despite that building consensus and compromise does not exclude the existence of the ‘wrong’ and the ‘wronged’ party. Writing about custom, instability and change, Gluckman (1965:279) suggests that many social relationships develop; strife and disputes emerge from the very customs and rules, as well as interests, which structure the relationships. For this reasons, customary ways of resolving land disputes aim at maintenance of social relationships. Where the dispute is over boundaries, it is often emphasized that since land is an immovable asset, parties to a dispute cannot avoid each other all the time while also maintaining their hold on neighbouring parcels of land.

The case book is not a detailed record of disputes. The details are condensed and sketchy and it is difficult to imagine or relate with the actual dynamics at the conflict stage. Moreover, not all the disputes are recorded. In 2007 there was a dispute in Jekete village that threatened to split the village, but it is not recorded. The dispute involved Matemba (parallel matrilineal cousin to the village headman) and some sisters and nephews to the village headman over land. The land involved here was in the past gifted to one *obwera* family, but later recovered as alluded to under disputes related to strangers wishing to sell land. When it was recovered it was split into three portions: one for Matemba, the other for the village headman and the third for the sister of the village headman known here as Namilanzi. Matemba sold his portion and that of Namilanzi at the price of K500, 000.00, but gave Namilanzi K25, 000.00 only. The actual price of the land was not disclosed

¹³⁵ Writing on ‘marking out boundaries’ Michel de Certeau observes that ‘in the traditional language of court proceedings, magistrates, formerly “visited the scene of the case at issue” in order to “hear” the contradictory statements made by the parties to a dispute concerning debatable boundaries’ (de Certeau 1984: 122).

to other members of the family until the matter came before the chief. The buyers, a family with connections to some philanthropic body in the West that provided money, initially planned to use the land to establish an orphan care centre. Later, they turned the structures into a private business and at this point the donors withdrew.

When I interviewed the village headman, who is aged over 70 years, he provided no reason for not recording the dispute. From the interview I had with Chitsenga, who is considered the village headman in waiting, the village headman decided that it should not be recorded to avoid creating a scandal. That is, that the family of the village headman is failing to resolve disputes amicably. The ideal is to downplay competitive aspects that way conform to the idealization that the family of the village headman ought to be a well-integrated unit in which all members live in harmony. Following custom is implied, ostensibly to restrain disputes from escalating, thereby preserving rather than destroying social order. For this reason, different parties involved in land disputes may draw on notions of harmony in pursuing self-interests.¹³⁶ Sometimes vested interests of the village headmen and chiefs are not declared. In the other disputed transaction involving Matemba, the village headman and the chief granted the buyer consent to lease disputed land. This action meant having two parallel processes intended to legitimize claims of one party against the other. Once land is leased, disputes over it are normally handled by the courts of law.

Engaging the Courts of Law

Anyone who is aggrieved or who may consider the determination of a land dispute by the traditional leaders, from the village headman to the chief, as partial or unsatisfactory can take the matter to the courts of law even if the land is not leased, sometimes after seeking redress by appealing to the district

¹³⁶ This is part of the argument Laurel Rose advances in *The Politics of Harmony: Land dispute strategies in Swaziland* (1992). As Ferguson (1993) writes in a review of Rose's book, harmony is a central ideological element in conceptions of customary law. Harmony as an ideology in Swazi land disputes shows how customary land is both flexible and dynamic. Parties to disputes often maintain an interest in preserving the ideology of harmony even as they pursue conflicting strategies within it: "the allegiance of all parties to a form of harmony ideology derived neither from an absence of conflict nor blind loyalty to "tradition", but from the exigencies of the external context: perceptions of squabbling within the "customary" realm would play into the hands of "developers", who would scrap customary land tenure altogether" (Ferguson 1993).

commissioner. The expectation is that whenever land disputes are reported to the district commissioner, he or she would review the matter and then refer the dispute back to a chief of the area in which the dispute occurred for re-review or may refer disputants to courts of law. Sometimes the dispute is taken straight to the high court by one of the disputants and here both parties are required to hire lawyers. Most often one of the parties might not afford hiring a lawyer. The state department of legal aid bridges that gap as illustrated later on.

Two government circulars or memoranda, one from the office of the president and cabinet (OPC) (File Ref. No. 18/016/3) and the other from the Ministry of Local Government (Ref. No. 18/1/1) issued a few years back direct district commissioners on how to handle land disputes in their respective districts. The circulars suggest that disputes should be referred to the magistrate courts as the successor to the traditional courts system that handled land disputes up to the early 1990s.¹³⁷ Both circulars refer to provisions in the Land Act. The ideology of harmony is at the centre of the process as reflected in the last point in the circular from the Office of the President and Cabinet which reads: “May I however request that the transfer of this responsibility to the courts should be done cautiously so that peace and order in your District are not disrupted” (text box 6.1). The expectation that disputants will be using the courts is emphasized in the circular from the secretary for local government as follows: “I shall be grateful if traditional leaders and their subjects can be reminded to seek the services of the magistrate courts whenever land disputes arise” (text box 6.2)

¹³⁷ The traditional court system in Malawi, introduced in 1964 and terminated by the 1995, was made up of specially chosen judges. The courts were often used by the government of President Dr Hastings Kamuzu Banda (1963–94) to obtain favourable sentences against political opponents.
<http://www.britannica.com/EBchecked/topic/359614/Malawi/281524/Justice>

Text Box 6.1: Circular from Office of the President and Cabinet (OPC)

Date: 15th May, 1995

File Ref. No. 18/016/3

From: The Secretary to the President and Cabinet, Private Bag 301, Lilongwe 3.

To: All District Commissioners and Assistant District Commissioners in-Charge of Sub-Bomas

cc. All Regional Administrators

Handling of Land Disputes by District Commissioners

1. You may recall that during the 1994 District Commissioners' conference which was held at Club Makokola in Mangochi, there was concern regarding the continued handling of land disputes by District Commissioners.
2. Please be advised, once again, that under the Laws of Malawi CAP:57:01 Part VII Section 36 (1) and (2) only the Traditional and Magistrate Courts are appropriate authorities for settling land disputes.
3. In this connection, therefore, land disputants should henceforth be advised to refer their disputes to courts of law. May I however request that the transfer of this responsibility to the courts should be done cautiously so that peace and order in your District are not disrupted.

Signed

T.J.K Mkwamba

For: Secretary to the President and Cabinet

Text Box 6.2: Circular from Secretary for Local Government

Date: 21st June 2002

Ref. No. 18/1/1

From: The secretary for Local Government, P.O. Box 30312, Lilongwe

To: All District Commissioners

cc. The Secretary to the Office of the President and Cabinet (OPC), Private Bag 301 Lilongwe 3.

The Solicitor General and Secretary for Justice

The Secretary for Lands, Physical Planning and Surveys, P.O. Box 30548, Lilongwe 3.

Handling of Land Disputes by District Commissioners

I refer to previous correspondence on the above subject.

I would like to inform you that complaints on land are still being received by the office of the President and Cabinet and this department despite Office of the President and Cabinet's circular letter Ref. No. 18/016/3 of 15th May 1995. I attach a copy of the circular letter for perusal.

I shall be grateful if traditional leaders and their subjects can be reminded to seek the services of the magistrate courts whenever land disputes arise.

O.A.Z. Chirambo

I will provide an overview of one of the interventions by the High Court of Malawi in one of the disputes and in doing so I will emphasize that taking land disputes to courts of law does not occur in an institutional vacuum. The two circulars and the decision of the court cited here suggest, as Hammersley and Atkinson argue, "documents can provide information about the settings being studied, or about their wider contexts, and particularly about key figures or organizations" (Hammersley and Atkinson 2007:122). I will refer to the Civil Cause Number 431 of 2007 (text box 6.3) for which the high court in Blantyre granted an injunction to the applicant, though the matter was later referred back to the traditional leaders. This dispute occurred in one of the villages under study.

Text box 6.3: Civil Cause Number 431 of 2007 (27 February 2007) entered in the Principal Registry of the High Court of Malawi at Blantyre. The matter being between Stalichi Kunjawa on his own behalf and on behalf of other members of his family as applicant. The respondents being Juma Mbazo as 1st respondent, GVH Mpasuka as 2nd respondent, TA Kapeni as 3rd Respondent and Nocas Chisale as 4th Respondent.

Order for an Interim Injunction

Upon hearing counsel for the applicant and upon reading the affidavit of Stalich Kunjawa attached hereto;

And upon the Applicant undertaking to pay damages to the respondent in the event that this order has been it is Hereby wrongly obtained.

An injunction is Hereby Granted, and it is Hereby ordered that the respondents be restrained from completing this transaction where the 2nd respondent seek to distribute the land in dispute to the 4th respondent. The 4th respondent is hereby restrained from occupying the land and the 1st and 3rd respondents are also hereby restrained from carrying out any transactions that have anything to do with the land until a further order is granted by this Honourable Court.

This injunction is valid for (7) days only.

Penal

If you above named respondents Juma Mbazo, TA Kapeni, GVH Mpasuka and Nocas Chisale disobey or neglect to obey this order you shall be liable to a process of execution to compel your obedience and you may be held in contempt of court and liable to committal thereof.

Registrar.

The land under contention is not big but valuable given its location along the road to the airport at one of the trading centres. From my interviews with different stakeholders, not the actual disputants, the facts of the dispute are: Villager X sold the land to A. Buyer A established a maize mill on the land which he later sold to buyer B. After some years B sold the land to C, and sometime later C decided to sell the land to another person. At this point villager X claimed that the land belongs to him. The matter was reviewed at the village *bwalo* and it was observed that the land belongs to C, though villager X insisted that his rights are paramount to those of C. Instead of seeking referral of the dispute to the GVH, then the chief (T/A), villager X obtained a court injunction restraining the seller C, the group village headman and the chief of the area. When it came for hearing the court referred the matter to the district commissioner who in turn referred it to the

traditional leaders. The traditional leaders decided that villager X had no rights in the land after disposing it by way of sale several years ago.

From this dispute it would appear as Hebo (2005) writes in the context of Ethiopia that individuals with weak grounds under custom would prefer to rush to the courts of law whenever they are involved in land disputes over customary land. In situations where the court system is corrupted the hope is to “buy truth with money” (Hebo 2005:132). Suffices to state that in the dispute just described here, it appears that no-one objected to the selling of customary land on the basis of illegality, which could be the reading from the existing law (cf. Peters and Kambewa 2007) because the transaction was disguised as involving ‘distributing land’. It appears also as indicated above that hiring a lawyer and taking the dispute to courts of law appears to be one way of intimidating the other party by those who have tenuous rights. Reference could be made to the observation by one village headman mentioned earlier about other people intimidating others that they will drag them to courts. As Mamo Hebo also suggests, “The fact that the case has already been registered at the formal office means that the plaintiff could put pressure on the defendant. Thus, formal dispute settlement structures are implicitly used as source of intimidation” (Hebo 2005:133).

The hiring or engaging of lawyers has the potential effect of altering the dispute as understood by contending parties given that by privileging the position of law, for instance the use of language of distribution instead of purchase, the dispute is transformed into written text that the courts can recognize. As Roberts (2005) writes, it appears that the grievance or dispute needs re-narration and re-articulation to conform to prevailing legal categories so that the courts can act on it. For this reason, the dispute as heard in the courts of law becomes the shadow of complex understandings of wrongs and of the set of interactions or practices. That is, what the courts get to adjudicate on is a summary of the disputed relations produced by an intermediary whose understanding of the dispute may not be articulate. Eventually, seeking redress through the courts of law would have transformative effects on what is perceived as customary law, even though formal court systems might draw evidence from those conversant with prevailing customary systems.¹³⁸ Further insights to the actual dynamics

¹³⁸ The dynamics have been described well in Jul-Larsen and Mvula as follows: “The fact that the formal judicial system through the Magistrates Court and the High Court has, since the political liberalisation in 1994, taken over the functions of the old Traditional Court

emerged during my interviews and recollections on disputes in the peri-urban villages that have been handled recently by the department of legal aid and also by the police.

Recourse to the Department of Legal Aid

I have already alluded to the place of the government's department of legal aid, which offers free legal advice and representation in the courts of law. A point to be noted is that, as also observed by Harri Englund, the department lacks resources and personnel leading to very slow and inefficient processes (Englund 2006a:124). My intention is to place that involvement in customary land disputes in its proper perspective by looking at disputes that have been dealt with without recourse to the courts of law. To begin with, the process appears to be endorsement of the view that customary disputes resolution systems offer adequate mechanisms for settling land disputes. As such the process always begins with appraisal of how the matter might have been handled at the village level. It is required that the complainant must have presented his or her case to the village headman of his or her area, and he or she must show that upon not being satisfied by the intervention of the village headman his or her case was referred to the group village headman (GVH), then to the chief or the traditional authority. That is, the matter must have been examined exhaustively under the customary or "primary justice system" (cf. Jul-Larsen and Mvula 2007: 7). The expectation is that when the chief (T/A) has failed to determine the matter to the satisfaction of both or one of the parties, then he or she will refer the matter to the District

which were controlled by the chiefs does not seem to have changed much to this picture. Formal jurisdiction (like e.g. the land act in function) continues to refer to traditional law as the main regulating principle. Given its ambiguity the courts therefore often rely on the traditional authority for defining the content of traditional law. Furthermore, local leaders, from family heads to chiefs, continue to be directly involved in solving local conflicts before they reach the courts. The court cases show that even District Commissioners sometimes were included in the chain of conflict resolving meetings before a case went to court. This system of conflict resolution is not only a question of brokerage; the leaders also pronounce verdicts and a considerable amount of pressure is put on the parties to accept the solutions they pronounce. The system has been called the customary justice system and we find the concept useful since it reveals how the customary realm is reproduced and even expanded into what – for lack of better expressions – is often described as the modern or formal judicial sector, irrespective of the abolition of important customary institutions such as the Traditional Courts." (Jul-Larsen and Mvula 2007: 7)

Commissioner (DC). From there the matter can be referred to the courts of law through the Department of Legal Aid.

The rationale includes the idea that customary land is vested in the state president, while the villagers have rights to use it. The village headmen, group village headmen and the traditional authority (chief) are trustees at different levels in the hierarchy. If there is a situation that has to be determined by the courts of law, in case the department of legal aid refers the dispute to the courts, what is supposed to happen is to fault the customary system of land distribution. The authority to be sued is the state given that all land is vested in the state (state president), and the court case is supposed to be between the complainant and the state (Republic of Malawi). The chief or the village heads may not feature directly because they do not have that legal personality. However, most of the time customary land disputes are reported to the Department of Legal Aid when the matter is already in the court of law, the High Court in particular. Usually, one of the parties might have hired a lawyer. Then the party that cannot afford legal representation is referred to the Department of Legal Aid. Parties to the disputes are often villager X and villager Y where the norm could be villager X or Y and the State. This situation is reflected in the Carola Lentz's discourse on the politics of belonging where she suggests that there is need to pay attention to the fact that legal interpretation of the disputes often occurs where stakes are relatively high and at least when one party is wealthy enough to pay a lawyer and take matters to court (cf. Lentz 2007:52). Taking disputes to courts of law suggest that it is the right and control over land that is particularly important. The selling and buying of land is at the core of the changing processes as control over land has become a source of wealth.¹³⁹

Where the operations of the department of legal aid resonate with custom and the customary dispute resolution system is that before referring the dispute to courts of law, the parties to the dispute are assisted by making recourse to particular norms. The understanding is that in Malawi there are two customary land tenure systems based in patrilineal and matrilineal family

¹³⁹ The prospect of more customary land disputes tried in formal courts of law is a challenge to customary tenure regimes. Under custom links to and rights in persons through whom land is acquired and by whom it could be used are crucial, not rights to land in the abstract. This change has been described by Martin Chanock as follows, "In pre-colonial society, people were linked to land through their membership of groups. It was their group standing which gave them access to land and consequently their concern was with maintaining their position linked to other persons rather than with rights in land" (Chanock 1985:231).

systems. The understanding is that there is no customary land *per se*; rather, what governs land is customary family law. This understanding relates to the lack of cultural and analytical boundaries alluded to earlier on between land tenure and other institutions such as kinship, social obligation, the family and also the economy (cf. Lundsgaarde 1974). State officers handling customary land disputes are expected to find out the ethnic groups to which the parties in dispute belong and from that information establish where the parties are expected to live or have land given the two family systems. The principle is that rights in customary land exist in situations of interaction, and therefore one holds rights as against other persons as a member of a customary landholding group. The assumption is that, which is erroneous in situations where customary land is already commodified, matriliney or patriliney specify in non-contradictory terms who is excluded as well as who is included in particular rights or obligations. Where the parties cannot agree on the applicable customary principles the dispute is then referred to the courts, though the courts of law are expected to determine the dispute on basis of law and not just custom.

In situations where disputes pass through the department of legal aid, such referrals to the courts of law happen when the parties have failed to overcome the differences between them following mediation, consensus and comprise building processes. Then legal aid officers can dismiss the claims or parties might be advised, when they insist, to seek representation from lawyers in private practice. Those who cannot afford the legal costs will normally give up their claims. The effect, as Englund (2004) writes on Malawi deploying the notion of narrative inequality, legal officers and their clients engage in a contest of contexts from unequal subject positions. As he put it, while officers subscribe to an individualist concept of rights and seek piecemeal solutions to abuse of rights, clients generally situate their complaints in complex moral narratives. For illustrative purpose, I will turn to two disputes the legal aid office in Blantyre dealt with recently. The two disputes manifest disagreements over kinship based rights and obligations and the socio-political place of traditional leaders in land matters.

In the first dispute the accused (defendant) is a high profile figure; who is serving as both a Member of Parliament and cabinet minister in the present government of the Republic of Malawi. The defendant obtained lease over customary land on which some families related to him have been living. After obtaining the lease he asked his relatives to relocate. The question before the

department of legal aid was how to assist the members of the extended family being evicted. Through mandatory mediation the office brought together the contending parties and an agreement was reached that the affected family members would continue living on the land. It appears that the process of acquiring the lease was not preceded by proper consultations. This aspect reflects the challenges highlighted in the previous chapter on leasing land. Mediation has simply postponed the question of rights of ownership, which might come up again at some point in time. If customary land can be leased without proper consultations by the rich and the political elite, people who are rich can buy whole villages or clandestinely lease the land, given also the informalization of formal state procedures highlighted under the leasing of land. Although the process of leasing land can be challenged in a court of law, the process is slow and the costs prohibitive for an average Malawian villager. So the rights of those affected by leases, for example rights to access paths, water and other rights guaranteed under customary rights to land are bargained away.

In the second dispute, the matter involves two siblings one of which is the former village headman Chimwendo (not the real name). He was dismissed as village headman after his brother complained that he (the village headman) was selling land in the village. The matter was initially reported to the local police station; where the aggrieved brother was advised to take the dispute to the group village headman or the traditional authority (chief). When the matter was brought to the chief, the chief dismissed the village headman, and then went on to inform the district commissioner of this decision.¹⁴⁰ The deposed village headman has been arguing that he never sold the land, what he did was to reallocate it to another family. In principle if a family relocates to another village or place, the land left behind reverts to the village and the village headman can reallocate it to others who may need it. The question before the Department of Legal Aid is whether the former village headman Chimwendo was properly dismissed.

¹⁴⁰ Initially reported to the police between July and December 2010. The statements recorded in the register of cases at the police suggest that the village headman gave consent to a family to sell land including a house without a roof and some fruit trees. Ambivalence is that this chief is also a beneficiary in some other transactions. Anecdotal evidence suggest that at one time he asked for K60,000.00 from the land buyer in order to for him to sign the lease consent forms. The price of the land involved was K800,000.00.

Engaging the State Police

I have already highlighted this aspect in relation to double selling of land and in the previous section. I intend to add a layer of depth, first, by noting that there are circumstances when complaints are entertained, but also other circumstances when the police would decline to intervene. In recent decades complaints are often channelled through the victim support unit (VSU) where they are registered and categorized following ideal types, namely: wife battery, husband battery, denying someone his/her entitlements, family desertion, family neglect, rape, property grabbing, malicious damage, defilement, arson, indecent assault, extra marital affairs, use of insulting language, destitution, illegal divorce, intimidation, threatening violence, murder, failing to provide food/others, common assault, attempted suicide, grievous harm, incest, AOB (and other bodily) harm, conduct likely to cause breach of peace (CLCB peace), abduction, practicing witchcraft, dispute over custody of child, locking a spouse outside, scalding (burning), forced sex, denying entitlements, and contempt of court. Drawing on land disputes reported in the villages and as illustrated above, I assumed that appropriate categories within which land disputes could appear are property grabbing, malicious damage, denying entitlements, intimidation, and use of insulting language (table 6.1). In the case returns, there were several complaints related to denying entitlements and property grabbing, but none of them concerned land. In the register of cases for the previous six months (July 2009 and December 2009) only two of the 175 cases recorded over this period happened to be land related.

Table 6.1 Cases reported at Chileka Police Station (Victim Support Unit (VSU)/ Community Policing Unit) 2008 – 2009

Year	Month	Total cases	Property grabbing	Malicious damage	Denying entitlements	Intimidation	Use of insulting language
2009	Jan	37	2	1	-	1	-
	Feb	22	1	-	8	1	-
	Mar	41	-	-	18	1	-
	April	38	1	-	17	1	-
	May	34	-	-	-	1	-
	June	37	-	-	8	-	1
	July	40	4	-	-	-	1
	Aug	-	-	-	-	-	-
	Sept	45	-	-	-	1	1
	Oct	28	1	-	-	-	-
	Nov	26	1	-	-	-	2
	Dec	36	-	-	17	-	-
	Total	384	10	1	68	6	5
2008	Jan	N/A	-	-	-	-	-
	Feb	52	10	-	-	1	1
	Mar	55	15	-	-	1	9
	Apr	45	8	-	10	-	4
	May	33	1	-	-	6	-
	June	40	6	-	6	1	1
	July	50	4	-	15	-	-
	Aug	55	2	-	25	-	-
	Sept	30	5	1	7	-	3
	Oct	57	1	-	16	-	1
	Nov	49	1	2	-	-	2
	Dec	46	-	2	28	-	3
	Total	512	53	5	107	9	24

Note: Figures for August 2009 are not included because they were not available.

From interviews with the police officers, most of the disputes or cases reported relate to family issues, other than the question of access, control or regulation of land. A point to be highlighted is that this observation contrasts with the reports from the village courtyards where most disputes are now over land as opposed to the past when most disputes were marital disputes. Where land matters are reported and the police go on to assist, such cases relate to double or multiple selling of land and the details about contested claims to land ownership are not emphasized. Land as the disputed object becomes invisible in the terminology. Yet, as the officers observed, due to rapid population growth there is growing pressure on land and more land related disputes than before, most of which are settled at the level of the village headman as mentioned already. Where disputed ownership of land is the cause of dispute, the police officers would often refer the disputants back to the traditional leaders because the village headmen and headwomen are the appropriate authorities over customary land. I will turn to two disputes of this nature in the register of cases for the period July to December 2009. The first dispute relates to the dismissal of the village headman described in the previous section. The second disputes involved neighbours over boundaries. Both disputes were referred back to the traditional leaders. So, the proper procedure for dealing with land matters involves the village head, who may refer protagonists to the group village headman, who may in turn refer the dispute to the chief or traditional authority of the area, who may also refer difficult disputes to the district commissioner or the courts of law. The police officer interviewed after reviewing the records summarized in table 6.1 observed that:

What happens is that some people think that the village headman would not assist them or sometimes the village headman himself is a party to the dispute. When that happens there are concerns that the village headman may not act as a neutral arbiter. Sometimes due to ignorance on how to handle conflicts over land, the villagers may think that such matters can be handled by the police. We advise them to go to the group village headman or the traditional authority, even if they have no referral letter from their village headman.

The police officers claim that they cannot be drawn into or be going around the villages to hear, for instance, disputes over land boundaries.

Resolving land disputes is work of the village headmen and headwomen since it is the village headmen and headwomen who are familiar with land matters at village level. In essence, this means tacit acceptance of the knowledge gap about land matters by state agencies, given also the lack of written records. Although the villagers might not have formal records of land or title transactions, they know who owns every piece of land. Despite the disputes, local ideas of property rights over land may not be under dispute and police officers who may not know the history of land issues at that level would find it difficult to intervene, as also observed by the officers that:

“What can we do if the issue at stake is about those people considered strangers? For example, I often hear people refer to each other that you are a stranger here since you come from Lilongwe. Did you buy this land? Go back to where you come from. Disputes about land ownership are difficult to follow. The villagers themselves are conversant with such matters. Some of the disputes are about people who ask for land. The agreements are verbal, but the parents pass on the details orally to their children and grandchildren. Even with the lapse of time the villagers know each other’s histories so well. For this reason there are disputes when those who obtained land by begging decide to sell it. The original settlers intervene by reminding them that the land was actually obtained by begging and so they cannot sell. Can a police officer intervene in such a situation? We were posted here to work, and it is not in our mandate to arbitrate on land issues. We cannot be going around the villages to resolve boundary disputes.”¹⁴¹

According to the participants, the involvement of the police in land related matters would be considered appropriate in situations involving violence, that is, where people are fighting, destroying property or engaging in other activities that disturb peaceful co-existence. The police would use legitimate force to re-establish peace and order, while the matter is being looked into by the traditional leaders or the courts of law, as the case may be. I will draw on three scenarios involving the land sellers and estate agents that are exceptions to this understanding of the role of the police.

¹⁴¹ Based on personal interviews with police officers at Chileka Police Station on 19 January 2010.

In the first case the village headman Mwera complained at the police station that there were some estate agents operating in his village who were causing problems. Some were demanding 50 per cent of the land money as a commission for facilitating a land transaction. Some estate agents were insisting that buyers should pay through them. The question then was what could happen in case the estate agent elopes with the money? In another transaction the estate agent earned a larger sum of money than the seller. The village headman advised the seller to report the matter to the police. Apparently, the estate agent decided to raise the price of land by a big margin. The estate agent was picked by the police for questioning, but he was released without any charges because the seller received what he had pledged his land for. Following this incident the village headman advised his subjects against allowing estate agents handle transactions, in particular, receiving payments for land on behalf of sellers. At some point the wish of the village headman was to stop estate agents from operating in his village. The police officers reasoned with the village headman to allow the estate agents to operate as much as they can. Yet, in another dispute, one of the estate agents complained to the police that one villager he helped sell land failed to pay him as per agreement. The seller accepted to pay the estate agent upon the intervention of the police.¹⁴²

Non-governmental Organizations (NGOs)

Some non-governmental organisations have intervened following complaints by some aggrieved parties, but in a broad sense NGO intervention includes advocacy for the rights of the landless as mentioned in the opening chapter under media representations of land issues. Intervention in land disputes may extend to conducting inquiries into alleged infringements of land rights by the state or powerful individuals. I will dwell on the second aspect by drawing on details about a dispute over land received at the Blantyre District Commissioner's office from the NGO known as the Civil Liberties Committee (CILIC) in the matter between

¹⁴² Anecdotal evidence suggests that some aggrieved parties do not make formal complaints at the police station, rather, they ask friends or relatives who are police officers to intervene in their personal capacity on the pretext of discharging official duties. This practice also applies in situations where some individuals could be hired to harass or intimidate or coerce the offender into compliance.

Mustafa Saidi (complainant) and Aziz Issa (Respondent). In reply dated 26th October 2009 the office of the district commissioner advised CILIC that it is not mandated to handle land disputes as per circulars by the Office of the President and Cabinet (1995) and the Secretary for Local Government (2002). Copies of the actual complaint could not be traced. Its relevance in this chapter is that it demonstrates how people in the peri-urban villages of Blantyre are eventually seeking redress over land disputes by taking matters to human rights NGOs. The human rights NGOs represent one of the epiphenomena of the transition from one party rule of President-for-Life Dr Banda to multiparty democracy. The response by the district commissioner's office highlights the ambiguous position of the state in relation to how the land law sometimes fails to address individual pursuits. Access to customary land is eventually becoming subjected to the human rights discourse. Writing about human rights in Malawi in the post-multiparty era, Englund (2000: 580) argues that: "The 'human rights talk' enforces, like a dead hand, a particular understanding of human dignity. It does so by attributing legitimacy to specific moral notions in the public discourse, thereby defining contours of what is not only acceptable but also conceivable." The human rights talk draws on the neoliberal agenda, which privileges the position of individuals as bearers of rights (Englund 2004; Kanyongolo 2004), as against group-based rights enshrined in customary land rights, if perceived as communal. This opposition and the engagement of NGOs have to be located in Harri Englund's later critique of the work of NGOs in Malawi that they embrace, as a result of influence from the western donors that support them, a legalist and individualist concept of rights which encourages piecemeal solutions to problems (Englund 2004:546). Also, as many NGOs have been established by lawyers, they oversubscribe to the idea that human rights issues are best rectified through the legal domain (Englund 2006:23).

Conclusion

Disputes and disagreements are often about rights and duties over land. The reason for making this distinction, between disagreements and disputes, is that it allows one to highlight the very different ways in which actors relate to each other in a socially embedded way. Each right and duty to land may relate to, as Crocombe (1974) suggests, four dimensions, namely: the area dimension, the time dimension, population dimension, and the legal and

customary dimensions. The area dimension defines the spatial limits to which any right, duty, privilege, or disability applies. The time dimension describes the period during which the right or other relationship has force. The population dimension enumerates the persons and groups involved and classify them in relevant categories, statuses, and social classes; each different category having particular or specific right. Rights over land exist in situations of interaction. That is, as illustrated in the previous chapter with regard who has rights to sell customary land, one holds rights as against other persons. For this reason it is necessary to specify who is excluded as well as who is included in a particular right or obligation. Finally, legal and customary dimensions specify the legal and customary criteria by which the distribution, transfer, and exercise of rights are conditioned. A full understanding of these dimensions is also interlocked with other social and political structures. Under customary land tenure relations in peri-urban Blantyre, the assumption that is disappearing is that individuals enjoy unlimited rights only as members of the land holding group defined on the basis of prevailing descent system. This is true for Malawi as also reported elsewhere.

Drawing on fieldwork in other districts of Malawi, Pauline Peters has shown that disputes over customary land are manifested in the quarrels over a wide range of issues, from the trivial to the very serious, ranging from quiet mutterings, stifled anger, overt quarrels, repeated fights and witchcraft accusations (Peters 2002: 8). While Peters attribute the centrality of competitive struggles over land to processes of agricultural commercialization and, more broadly, of agrarian transformation, the importance of population pressure and changing actors' perceptions towards land as a commodity highlighted in chapter four of this book cannot be overruled; more especially in the peri-urban contexts. On population pressure, Hailey cited in Meek (1946: xi) suggested many years ago that: "With the growing density of population and increased pressure on the land, holdings acquire a transferable value, and rights in them become more completely commercialized." I would think that this is what is being witnessed but also eventually contested in peri-urban areas of Blantyre. The same position has been advanced by Donald Williams who argues that rising population pressures, among other factors, contributes to alterations in the way land is acquired, used, and eventually disputes settled (Williams 1996). A rather slightly different categorization of land disputes in Malawi is to be

found in the Malawi National Land Policy (MNLP). The third section of this policy document is devoted to land disputes. The causes of land disputes noted here are: residual effects of colonial land policy, high population to land ratio, land scarcity in spite of idle lands, provocative squatting, privatization of access to customary land (with rules becoming more private and restrictive than before), mismanagement, cross border encroachment, uncontrolled allocation of lakeshore land and encroachment onto conservation and protected areas. Some of the issues are also reflected in my review of the media and land issues in Malawi (chapter one). The disputes in peri-urban Blantyre, as recounted in this chapter, relate more to the scarcity of land, worsening land pressure and probably the privatization of access to customary land given also that the rules guiding access are eventually becoming more private and restrictive than before.

This chapter has emphasized understanding changing interactions with an eye to the happenings within the wider socio-political context. Land disputes relate to contested ownership, rights to sale, boundary concerns, and also how proceeds are shared. These categories are empirical trouble situations rather than formal legal categories. The context is not completely commercialized and the selling and buying of peri-urban land does not imply complete commodification of land relations. People locked in land disputes seek redress by appealing to various institutions: the customary institutions (family, village headman, and chiefs), the courts of law, the department of legal aid, the state police, and human rights NGOs. Various alternatives are possible and pursued by actors as complementary ways of negotiating the complexity and ambivalence of emerging relationships. The ambivalences are multiple, namely: whether land belongs to kin-groups or to individuals, whether the sale agreements imply permanent alienation, whether boundaries are physical or cultural and also over the self-interests of those holding positions of traditional leader. Negotiating the ambivalences requires more than sound legal knowledge and applicable customary notions and practices.

I have shown here that land disputes provide a window on local contestations for rights to land and also illuminate the capacity of various actors to negotiate established or emerging land relations in everyday encounters. In this regard land disputes provide space for appreciating the relevance of different customary based notions and norms. Most disputes are, in a general sense, disagreements over new and emerging relationships or demands, which in a sense suggests that norms themselves can generate

conflicts and emergent relationships (Englund 2008). A point made three decades ago by Tiffany (1980) that land disputes need to be understood as strategies for enhancing economic wellbeing is as true in peri-urban Blantyre as it were then. In the present peri-urban scenario competing players include holders of positions of traditional leadership. For these reasons, Waterson observed that, “It is in the breaches that the force of a norm can most clearly be seen, and the arguments brought forward during disputes may illuminate principles which are otherwise taken for granted, receiving little direct expression. Disputes thus help one to grasp what are the limits either of acceptable behaviour, or of some structure or institution which in other ways may not be clearly bounded” (Waterson 1995:194). Another point to be emphasized here is that disputes show that peri-urban land transactions are not immune to state influence and control. As particular land disputes shift from one level to another within the customary dispute resolution system, and from the customary to the non-customary dispute resolution mechanisms, the local and the supra-local become intertwined with the state, and to that extent illuminate how contestations over customary peri-urban land rights and relations are also tied up with the state. Yet, it is also true to suggest that in the meantime the state is not directly entangled, partly because most of the disputes are not politically significant in the sense of coinciding with political divisions and politically relevant and explosive ethnic based struggles (cf. Lentz 2007). The next chapter turns to intermediaries or estate agents. The intention is to demonstrate how peri-urban land transactions are attracting a wide range of actors and how that informs and enriches various practices described in this chapter and those before it.

Intermediaries in Peri-urban Land Transactions

Introduction

This chapter turns to estate agents and in doing so it seeks to demonstrate how peri-urban land transactions are eventually attracting a diversified group of intermediaries. As intermediaries in peri-urban land transactions, many estate agents are not registered with the state. This aspect raises a general question about the legitimacy of the practices. However, the question addressed here is how the estate agents are positioned. The first part of this chapter provides an overview on the position of intermediary in peri-urban land transactions either as a ‘go-between’ or broker. It interrogates the process of becoming an estate agent as understood and experienced in peri-urban Blantyre. Then, I will explore the place and role of the estate agent. Central to this section is my wish to discuss how the estate agents as intermediaries relate with each other, and how they contribute to the commodification of peri-urban land through planned and spontaneous networking, through advertising for land in the print media and by other means, and through everyday exchange with the land sellers, the land buyers, and the village headmen. One of the notable aspects is that more often the interactions are facilitated by the mobile phone. Sometimes the estate agents’ intentions may or may not correspond to those of the other actors. Hence, this chapter adds a dimension to the themes covered in the previous chapters; in particular on land related disagreements and disputes. The outcome is not predetermined; rather, it emerges in the course of interactions despite the tendency towards routinization of some practices. Such routinization of practices implies, for instance the advertisement for land in the daily and weekly print media, that the estate agents create a space that is sometimes increasingly independent of the other actors. Hence, they become real masters of the game, and it appears that in this regard estate agents contribute more to the growing commodification of peri-urban land than some of the other actors do.

Intermediaries in general perspective

The role of intermediaries, brokers or ‘go-betweens’ and middlemen has been explored in many studies and for a longer period of time now. For instance, in livestock marketing in west Africa (Hill 1966) and the horn of Africa (Little 1992), in popular culture (White 2000 on the development of Congolese popular music), in Chat (Khat)¹⁴³ trade in the horn of Africa (Gebissa 2004), and in land transactions in Dar es Salaam (Briggs and Mwamfupe 1999), Kampala and Enugu (Rakodi 2007), Sokoto (Swindell and Mamman 1990) and also Bamako, Bogota, Mexico City and Valencia (United Nations Centre for Human Settlements 1996). In land transactions, and those involving landed or real property, such intermediaries are often known as land brokers or real estate (property) agents or estate agents and sometimes simply as ‘agents’ as is often the case in Malawi.

In principle the estate agents fill the gap between people and also between people and the state. Sometimes the ‘agents’ could be party politicians, real estate developers, community that invaded or purchased land, a popular leader or an organisation (UNCHS 1996:242; James 2007b) or traditional leaders. Deborah James writing on South Africa’s land restitution programme suggests that by side-lining the traditional chiefs, powerful intermediaries (brokers) have emerged from within the ranks of beneficiaries, who have become authoritative distributors of land for some fee or price (James 2007a). These brokers use their better acquaintance with the rules or with various conflicting sets of rules to help less adept counterparts and sometimes to keep other less scrupulous brokers at bay (James 2007b).

I will be using the name estate agent because it is what most of the actors in peri-urban land transactions are familiar with. Apparently, most estate agents as intermediaries or brokers are not engaged on full time, but as one element of the portfolio of various business activities. Their prime role is to match potential buyers with sellers (Benjaminsen 2002; Briggs and Mwamfupe 1999; Chanthalasy et al 2005 for Lao). As the estate agents are largely interested in the transferability of land, there is also the view that many estate agents, like speculators in various transactions, are motivated by expectations that real estate brokerage generates considerable additional income. Kaitilla (1999) speaks about the existence of invisible estate agents in

¹⁴³ Chat or spelt as Khat is a herb whose leaves and twigs are chewed as a stimulant. It is native to the horn of Africa, but its consumption has spread across different continents.

many developing countries whose services in the provision of land and housing have had beneficial effects. Invisibility arises due to the informality and the taken-for-granted nature of the activities. In other words, they effectively straddle the formal-informal divide in the economic discourse (cf. Niger-Thomas 2000). Invisibility may also take the form of working through family and friendship networks (cf. Marx and Royston 2007 for South Africa). As Sherry Ortner writes on social agents, the estate agents are always embedded in relations of solidarity: family, friends, kin, spouses or partners, children, parents, and so forth (Ortner 2006:130).

While anthropological studies have revealed insights into formally patterned relations based on kinship, they have sometimes ignored or underplayed the role of friendship in determining who does what, with whom and why (Kessing and Strathern 1998:246). Recent exception includes the study on illegal Zimbabwean maids in Botswana where friends and relations act as ears and eyes for one another in the search for work, accommodation, safe keeping of personal items, and also information about possible raids by the state police (Nyamnjoh 2006: 218 - 222). In peri-urban land transactions in Blantyre friendship is an important factor and people built on social relationships and networks that are not solely economic. This aspect has been highlighted earlier in relation to flows of information about the existence of land (chapter 4) and also land disputes (chapter 6). I will take this matter further by highlighting that among the estate agents there are various forms of social networks. As Barnes (1972:4; 1990: 72-3) as cited in Narotzky (1997:75) suggests, the idea of social networks provides a way of looking at those parts of social life where groups do not always form.

Two fundamental properties of social networks are multiple interconnectedness and chain reactions. As Katherine Giuffre suggests, individuals occupy particular positions within networks, either at the margins or at the bridge; but particular positions and roles are necessary for creativity to flourish within the given types of social interaction or structures (Giuffre 2009). In peri-urban land transactions this aspect is more visible in relation to the work of estate agents than other actors. The notion of networks becomes relevant in understanding peri-urban land transactions when perceived from the perspective that networks develop along friendship, acquaintances or on other common interests through which a person becomes in touch with a number of people, some of whom are directly in touch with each other and some of whom are not, and eventually each person becomes the centre of a

collection of friends (Wilcox 2008: 165). Such networks and also face-to-face encounters that are common in peri-urban land transactions facilitate access to information about the availability of land or those offering land, about the people seeking land, and also information about similar ongoing and past transactions.

The estate agent as *dobadoba*

The peri-urban villagers in Blantyre call intermediaries in land transactions simply as ‘agents’, even though a more familiar local name is *dobadoba*. There is no consensus on what *dobadoba* means. Some claim it means businessman, while others suggest that it means middleman. There is a perception that anyone can be *dobadoba*, as village headman Mwera put it: “There are people who have talent, and some who are educated. But anyone can be *dobadoba*. Even a boy in the street could be *dobadoba*. Being *dobadoba* is about being paid for any little work. Even a little boy on the street could be *dobadoba* if he gains monetary advantage from giving strangers directions.” The name *dobadoba* is also used to refer to intermediaries involve in the trading of bricks, river sand, or quarry stones. In this particular sense the term *dobadoba* infers ‘go between’ or intermediary, though there is no agreement on this meaning, and quite often its use in relation to estate agents is rather ambivalent.

There are two main language groups in the study villages, namely: the ChiMang’anja (Chichewa) speakers and the ChiYao speakers. There is a tendency among speakers of the two languages to appropriate the name *dobadoba*. Speaking to Mang’anja villagers or headmen they claim that *dobadoba* is a ChiMang’anja term, while Yao villagers or headmen too claim it as part of the ChiYao language. As one ChiYao speaking village headman put it, “We use *dobadoba* as a ChiYao term, but in English we call them estate agents, those who bring customers.” The mere mention of bringing customers conforms to perceptions that the selling and buying of land is eventually considered some form of business. Yet another village headman who is also from the ChiYao speaking group suggested that the name *dobadoba* could be a

derogatory term for estate agents. He might be right given the negative connotations the usage of the term is sometimes associated with.¹⁴⁴

There is a difference in terms of how the local estate agent and the urban estate agent are to be positioned. As Mende put it:

People like Kachala call themselves estate agents. So, normally there would be some middleman between the estate agent and the owner of the land. There would be some people who go around identifying parcels of land on sale, and then they transmit the information to the estate agent. The estate agent finds buyers. So *dobadoba* is the middleman between the owner of the land and the estate agent. And you may have two or three *dobadoba* between the owner of the land and the estate agent.

In this view *dobadoba* would refer to local estate agents only, but I will be using the concept to refer to both the local estate agents and the urban estate agents given that peri-urban villagers rarely draw neat distinction between the two, and often they distinguish them by where they live— *dobadoba wa mtauni* (dobadoba from the town or city) and *dobadoba wa kumudzi* (dobadoba from the village). To be precise some add the name of the village from where that estate agent lives, the land transactions one might have facilitated recently or by which they came to be known as *dobadoba*.

My interest is not on the lexicon of the term but on what it refers to is perceived in everyday life. As mentioned earlier, the everyday represents an arena or space of the routine and strange, and a space of innovation, improvisation, change and resistance (cf. Prakash 2008:12). As James Ferguson suggests on the use of the notion of modern family, we must ask of agent what Foucault asked of the concepts that he interrogated; not simply: “What does this concept *mean*; what does it really refer to?; but, “How and to what effect is this concept deployed; and what does it *do*?” (Ferguson 1999: 205). For this particular reason I will turn to how people become estate agents. I will analyse the life stories of different agents encountered both in the city and in the peri-urban villages. Initially, I will limit myself to stories of three local estate agents, namely: Fanuel, Chitseko, Gwembe, and three

¹⁴⁴ In Blantyre city the name *dobadoba* is also used to refer to outlaws like minibus touts and dealers in stolen merchandise. The usage is not connected to the satirist sports cartoon also known as *dobadoba* published by *The Nation*.

stories of urban estate agents, namely: Balaka, Blessings and Tito. I will later on draw on stories of other local and urban estate agents and also other people who do not refer to themselves as estate agents, but as people who are eager to assist others, both the sellers and the buyers. The purpose of these accounts is to highlight decision points and intentionality, and how the social and structural context, both local or national and economic or non-economic, play in the making of estate agents, and therefore how the estate agents interact and relate with each other, with the land sellers and the land buyers within particular frameworks. Through life stories and experiences of selected estate agents this chapter demonstrates what Francis Nyamnjoh calls “the popular epistemology on which ordinary people draw daily, and the ways they situate themselves in relation to others within that epistemology” (Nyamnjoh 2001:29). Actually the life stories allow estate agents to tell their own story their own way that enriches my understanding of the role of intermediary in peri-urban land transactions in the particular context of Blantyre, Malawi.

Becoming Local Estate Agent

Most local estate agents claim that they were born in one of the peri-urban villages or they relocated to the peri-urban villages many years ago. Some claim that they were primarily enticed by the experience of having to sell land or being asked to assist some buyer or other estate agent with finding land in return for some monetary compensation. Hence, local estate agents claim that they are in this work for the money and for some being local estate agent is work upon which they rely almost entirely for their living. These aspects are evident in the trajectories and life stories of Fanuel, Chitseko and Gwembe as outlined in the following sections.

Fanuel

Fanuel happened to be one of my initial points of contact when I started my fieldwork. He lives in Chikowa village, a flourishing peri-urban village on the northwest margin of Blantyre city. Fanuel dropped from school while in standard 7, as he put it, due to lack of encouragement and financial support. He is married with four children, two girls and two boys. Fanuel’s parents, both his father and mother, originally came from Mangochi, the district at the southern end of Lake Malawi, but he claims that he spent the early years

of his life in Ndirande Township, the most populous low income settlement in Blantyre city, where his father once owned six houses. Then, these houses were rented out. All the houses had iron sheet roofs, but were not connected to both electricity and piped water.

Fanuel's family moved from Ndirande to Chikowa village after his father lost his job at the time the state liberalized the textile industry. The decision was to settle not too far away from the city, but where the family could also have adequate land for smallholder farming. Fanuel's father acquired by buying some land in Chikowa village on which he built his family house. Later, Fanuel's father acquired more land at low prices, almost free of charge, from the previous village headman. Fanuel claims that the former village headman was one of the close friends to his father. For some time Fanuel's father led his family in cultivating the land for maize production, but gradually he started selling the land bit by bit to other people flocking to this peri-urban village for cheaper land. Most of the buyers have since built big residential houses. Fanuel's father died a couple of years ago, and by then he had sold almost all his land in Chikowa.

After his father's death, Fanuel and other members of his family decided to sell the houses in Ndirande. Each house was sold at K45, 000.00 through urban estate agents at the fee of 10 per cent. This was the turning point for Fanuel. As he put it, "I was upset by the amount of money my family had to part with simply for inviting someone to secure a client to buy the plots. I realized that work as estate agent could bring me lots of money." Fanuel claims that he supports his own family largely from the money he earns as estate agent. He has since bought land, where he has built his own house. He has already occupied it even before plastering the walls, fixing the concrete floor and fitting window panes. Instead of corrugated iron sheets most peri-urban villagers are using for roofing, Fanuel bought IBR sheets (IBR is abbreviation for inverted box rib). Also, Fanuel claims that his children attend private schools. As he put it, the quality of education in public schools is not good enough. On one occasion, while standing on the road side and the time was about 1.30 PM, Fanuel drew my attention towards a group of pupils walking home from the local public primary school, and then he observed that pupils at the private school where his children learn stay in school until 4.00 PM. He noted that the situation in public schools is not even conducive to the education of the girl child.

Chitseko

Chitseko is also based in Chikowa village. For his primary education he attended several schools in Blantyre and Lilongwe. He also attended different schools in Blantyre, Lilongwe and Mzimba for his secondary education. He passed the Junior Certificate of Education (JCE), but failed the Malawi School Certificate of Education (MSCE). Chitseko planned to reseat the MSCE examinations, but gave up after being frustrated by the failure of his guardians to pay schools fees following the death of his father in the early 1990s. In 1997 Chitseko left for South Africa to live with his elderly brother who migrated earlier during the TEBA period. In South Africa, Chitseko worked for a construction company for about five years. He returned to Malawi at the end of 2001. Then, his only sister was sick and she died a few months after his return. Then Chitseko became, as he claims, the family head. He is in-charge of his own family (wife and three children) and his nephews and nieces. Chitseko has two more brothers within Malawi and one brother in South Africa.

Chitseko claims to be indigenous to Chikowa Village, since Chikowa village is the place of origin for his deceased mother. Like Fanuel, Chitseko's father originally came from Mangochi. Currently, Chitseko earns his living mainly as estate agent. He also earns some income as landlord. He oversees three houses inherited from his parents. The three houses are on privately acquired customary land in the neighbouring Mwera village. Chitseko is also a part time businessman. He sells washing soap, which he imports from Tanzania with the help of his sister-in-law (wife to one of his brothers) who works with the revenue collection authority at the northern border post. At the time of interview Chitseko expressed concerned that this business involving the selling of washing soap will collapse following what he described as his sister-in-law's imminent transfer from the border post to the international airport in Malawi's capital. He would not be able to continue with his business and his sources of income will be limited to work as local estate agent and monthly rent from tenants living in his houses in Mwera village.

Chitseko claims that he was inspired to become estate agent by another man known as Chimweta, who is now dead. Chimweta used to live at Chikowa trading centre, where he had a grocery store. Then, buyers from the city would come through Chimweta to buy land. Chimweta enlisted the help of Chitseko who went round the villages scouting for land. Chimweta could

then bring customers who upon concluding the transactions paid them some money, ranging from a few hundred Kwachas to a thousand. Now Chitseko is well known as estate agent. He is also a close friend of Fanuel. He and Fanuel live some 350 meters apart.

Gwembe

Gwembe, also a resident of Chikowa village, sat for the Malawi School Certificate of Education (MSCE) examinations in 1998. In 1999 he went back to school to seat again for the subjects he failed so that he could qualify for the MSCE. While in school Gwembe secured a job with the Malawi Housing Corporation (MHC). He worked for one year at the construction site where he was involved in operating machines for making cement blocks for the housing project. When he left this job he started selling *kaunjika* (imported second-hand or used clothes). He practiced door to door vending. Sometimes he moved from one periodic market to another. One of the popular markets he used to frequent is Phalula because that is where his parents are now living having relocated from Chikowa village a couple of years ago.

Gwembe claims that he was introduced to the work as estate agent by Fanuel. As he put it: “You know Fanuel, it is him who introduced me to this work. He is our chief here.” As Gwembe further put it, there was a time Fanuel had a client but he had no information on land that he could offer the client. Fanuel called on Gwembe to ask if he [Gwembe] had any information on who was selling land. Then, Gwembe had heard that a certain woman was selling land, so he led Fanuel to the home of that woman. Fanuel’s client bought the land. From that day Gwembe and Fanuel became co-workers. Gwembe observes that later on they established some connections with estate agents from the city. He also observes that there are times when the peri-urban villages are flooded by estate agents from the city searching for land. For three or four years Gwembe has been earning his living mostly as estate agent. Gwembe claims that he is able to provide food and other needs to his wife and children. Gwembe concludes his story by saying that “I was enticed by Fanuel. For me the beginning was when Fanuel asked me to lead him to someone who was then selling land.”

The stories of these three local estate agents suggest that local estate agents are people with established connections in the peri-urban villages.

Their entry into this work is by chance of having to meet someone already in this work. It is also apparent that besides doing the work of estate agent, the local estate agents may be part time business persons or subsistence farmers. Fanuel, Chitseko and Gwembe dominate the field of local estate agents, and the fact that all the three originate from Chikowa village is not by accident. What make them tick are the connections that they have forged with the urban estate agents. This connection is evident in the account by Gwembe and not in the accounts of Fanuel and Chitseko. Through the recommendation of Chitseko I met with Balaka, one of the urban estate agents, and with several other land sellers and buyers, which also reveal apparent attempts by local estate agents to straddle the rural-urban divide.

Becoming Urban Estate Agent

I met Balaka, Blessings and Tito at different times and in different places. All the three operate in more or less similar fashion, and like the local estate agents, all the three are in this work for the money.

Balaka

Balaka described himself with pride as self-employed estate agent. He left school a few years back after attaining the Malawi School certificate of Education (MSCE). He claims that he is reading for certificate in banking. He was introduced into this work by his former schoolmates. He registered his own business as estate agent with the registrar of companies, and he has facilitated transactions in Blantyre, Lilongwe and Mangochi. In Blantyre city alone, he has handled properties in Machinjiri, Chileka, Chirimba, Lunzu, Chigumula, Namiyango, Nancholi, and Chilomoni townships. He claims that once he had an office in Chirimba Township, but he moved out after some disagreements with the landlord over the payment of rent. Balaka relies on the mobile phone and the print media.

I met Balaka for the first time at a bakery, then later on in a restaurant in Blantyre city. Balaka emphasized that finding property is more difficult than finding customers, and that some urban estate agents work cooperatively. However, cooperation is limited to sharing costs of advertising for properties in the newspapers. He claimed that there are risks to cooperation. One of the risks is theft, that is, some estate agents rush to sell and retain commission on properties identified by other estate agents. In his view this act reflects the

lack of honesty among many estate agents, much as it also relates to the harsh economic realities, given what he described as ‘this market is flooded.’ He claimed that there are many splits and conflicts among estate agents. He split up with his friends who introduced him to the work some two years ago because they were not paying him as agreed. Then, he adds that where money is involved it is difficult to build trust, noting also that many estate agents are not honest. For this reason, he claimed that some estate agents have resorted to indirect advertisement (location of the properties is not provided explicitly) to avoid giving away vital information to competitors. Balaka claims that he has contact persons in the peri-urban villages. These persons scout for land and when they find one they contact him to bring along buyers. Also, people who know him as estate agent come to him whenever they want land or houses and they also refer to him other people who may want to buy land or houses.¹⁴⁵

Blessings

Blessings acquired the Malawi School Certificate of Education (MSCE) and trained as painter at the technical college in Blantyre. Upon leaving the technical college with the Grade 2 certificate, Blessings worked for two years with one construction company. Then, he learned about the work of estate agents, and so he decided to join one estate agent company where he worked for another two years. After that he teamed up with another person to start their own firm as estate agents. Some months later Blessings’ partner left to start work with an international airline company as an accountant. At this point Blessings decided to partner with a law firm. The law firm provides office space and handles the processes related to transfer of registered properties (conveyance) for a 50 per cent share of any income. Blessings deals mostly with registered land. Only one transaction he handled before my interview with him was on customary land in Mzara village. He works on two arrangements. First he takes commission of 15 per cent, but he says it is negotiable. Sometimes the seller (vendor) comes up with the price, then Blessings has leeway to charge as he sees fit and that way claim any amount in excess of the seller’s price. Like Balaka, Blessings advertise the properties

¹⁴⁵ The bakery was so crowded and so he suggested that we go outside. I introduce myself and set the conversation moving. Several people passed by, some were inquisitive while others ignored our presence. One of the passers-by knew Balaka as an estate agent. In low tone voice he asked ‘are you planning to sell him that house?’

in the newspapers. He claims that he has a database of clients. Before advertising properties in newspapers, he contacts the clients on his database (list) to find out if they could be interested in the new properties.

Tito

Tito is a marketer by profession. He runs his estate agent firm as the sole proprietor, where among others he is involved with property management and valuation. Tito once worked with one of the major firms in Blantyre involved in real property and estates management for some eight years. In September 2009 Tito decided to start his own business under the name Positive Properties. Like Balaka, Tito claims that most estate agents are crooks such that many property holders would not want to deal with any estate agent. Tito claims that his wish is to change things: “We wanted to be unique. Many estate agents let down customers. Some estate agents deceive property owners, some of them poor, widowed and sick and in need of money to pay medical bills. Many people say: ‘No, my house or my land I cannot sell through any estate agent.’” Referring to a client who had just left the office with a cheque in respect of the house transaction he had facilitated, Tito observed that “We got his money today. I had to call my brother-in-law who is working with the bank to clear the cheque quickly. We have given him his money. We want to be different.” Tito relies on the print media for his advertisements. He likes to advertise with the *Daily Times* because of what he describes as fair rates. Yet, he also claims that normally he places advertisements two or three times only in a week because he cannot afford to have adverts running every day due to financial limitations. Tito observes that selling land or houses is sometimes subject to luck. Sometimes it takes just a week to find a buyer while at other times it may take one month or longer. The owner of the land or house has the final say on the price. He collects a commission of 10 per cent.

What distinguishes urban estate agents is that they take commission of between 10 per cent and 15 per cent. Compared to local estate agents, they are trained in a particular profession related directly or marginally to property management. They also have different forms of networks of friends and relatives upon which they draw on for support in their work. Their path of entry into the work is just like that of local estate agents, who are drawn into it through association with friends or former employers. Unlike the local

estate agents, the urban estate agents consider themselves as in full time employment, though there are others who combine work of estate agency and other forms of work as described in the next section.

The Place of Estate Agents

From the estate agents' perspective the process of buying or selling land commences with a visit to the land that is on sale by an estate agent, usually a local estate agent, to appraise its size as well as probable uses. Size and probable use of land are important when determining the price of the land. The role of the estate agent is not limited to finding the person to buy, as implied in the previous chapters, but also helping the seller arrive at reasonable price given the attributes of the land. The experience gained by estate agents in handling various transactions implies that they are often updated on changes in the pricing of land. Central to setting the price is the notion of price range. The price range is the arithmetic range or band with the offer price as the upper limit and the negotiated price as the lower limit. The offer price is often set by the seller and sometimes by the estate agent before any negotiations could commence. A negotiated price is the final price reached by adjusting down the offer price. Some sellers prefer to set the last price. The other alternative is that the seller would ask the estate agent to bring any potential buyers with whom the seller would then enter into negotiations. Thereafter the estate agent collects 10 per cent of the price as his commission, though this applies only to urban estate agents, and even then the actual amount received as commission is sometimes negotiable or contested as described already under land disputes in the previous chapter.

In many transactions an estate agent would consult the seller's family members to confirm the ownership of land and the existence of consent or consensus. Estate agents may also seek confirmation of the village headmen about the ownership of land. A point to be emphasized, as one urban estate agent observed, "This industry is full of problems. We cannot sell land whose ownership is disputed. It is for this reason that whenever we receive offers we inquire more from the village headman. With the cooperation of the village headman, no one can sell land twice. That is how we work." While corroborating the claim by the urban estate agent quoted here, one of the local estate agents observed that there are also other reasons for confirming the status of the land with the village headman. It serves as advance

notification to the village headman. Local estate agents and sometimes the urban estate agents take time to know the village headmen whom they describe as partners. I met and interviewed Gwembe at one of the Chibuku bars during which he observed that he knows almost all the village headmen in the area. He was able to confirm this claim when two village headmen from the area arrived at the bar in order to drink Chibuku beer. The two village headmen cordially exchanged greetings with Gwembe before taking their places. Later on they asked Gwembe to join them after the interview. Then Gwembe noted that:

The first thing we do is to meet the sellers and then the village headman. The good thing is that most of the village headmen come here for beer- we drink together! It is almost impossible for the seller and the buyer to exchange land and money without witnesses. The main witness is the village headman. It is the village headman who can confirm the ownership of land. The village headman also knows which land was sold already or not. Sometimes it happens that some people might want to sell the same piece of land for the second or third time. Such cases lead to disputes. It is advisable to contact the village headman before even thinking about finding the buyer. What we do is to investigate – is the land free of disputes? Has it not been sold before? The people who can be relied on are the village headmen.

The assumption is that, a Gwembe put it later, village headmen are honest. For this reason the problem of double selling of the same piece of land has never happened in all the transactions Gwembe has facilitated. Yet, he observed that there is one village headman who allows his people to sell the same piece of land to two or more people and so far Gwembe avoids dealing with that village headman or land in that village. Apparently, while most estate agents would claim knowing something about double or multiple selling of land, several estate agents point that it has never happen in any of the transactions they have been involved in. Usually they attribute this feat to the good relations with the village headmen and sometimes cheer luck. Gwembe narrated how clever he has been over time in avoiding falling into double selling of land as follows:

I will tell you that the day we first met, a small boy came over to tell me that he has land that he wants me to sell for him. I told him that I will consider it. The following day I saw his uncle passing by here, I stopped him to find out if in deed he is aware that his nephew wants to sell some land. His uncle replied that he is aware and that he knows that there are some financial problems that they would want to sort out after receiving money for that land. Then I went with his uncle to see the land. Afterwards I went to the village headman to inquire if the land is dispute free. Sometimes you derive lessons from other people's bad experiences. I have never been involved in such a mess.

In essence the estate agents' interests in safeguarding transactions from dispute forms part of the primary basis of customary dispute resolution, that is, avoidance of situations that might lead to dispute as already described in the previous chapter. It is at this point that local estate agents contact their friends in the city, who are also keen to hear that the land is dispute free. As mentioned earlier, existence of disputes over land is considered "destructive information" (Goffman 1959: 141), which might affect the possibility of land being sold or lead to conflict thereafter. The estate agents are concerned with disputes because any dispute has potential negative effect on their reputation. In principle, advertising for peri-urban land comes later.

Advertising for Peri-urban Land

Advertising for land is one way by which customary land is objectified. I will use the advertisement for land to demonstrate and contextualize relations between local and urban estate agents, how local estate agents are learning from the urban estate agents and also how land transactions actually reflect the connections between the rural and urban. I will also comment on the intentionality and creativity of the actors and the utility of the mobile phone. A detailed discussion on the place and transformative effects of the mobile phone in everyday Africa is provided in Bruijn et al (2009).

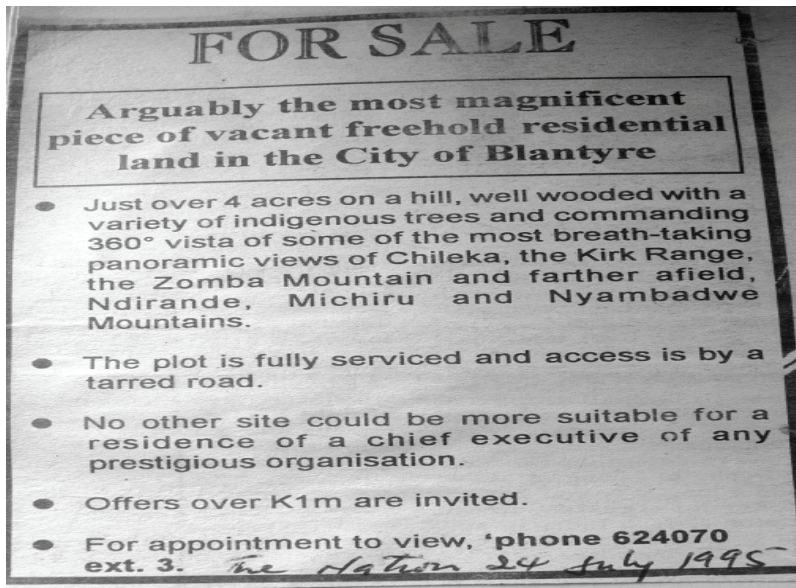


Figure 7.1 A newspaper advertisement for land (*The Nation*, 24 July 1995)

It is common to see advertisements for land in the daily and weekly newspapers, most of which are posted by estates agents. The advertisements are not classified according to statutory land categories. That is, whether the land is customary or not, but inquisitive readers get to know about the status of any land that is on sale after making inquiries. Most of the advertisements appear in the classified ads pages. Some advertisements are open ended. Such advertisements are phrased in ambiguous manner that leave the reader guessing whether the advertiser is selling or intending to buy land. Most of the estate agents interviewed claimed that they place adverts for land in *The Daily Times* or *Malawi News*, both of which are published by the Blantyre Newspapers Limited (BNL). The rates for such advertisements are relatively lower compared to the other newspapers; like *The Nation*, *Weekend Nation* or *Nation on Sunday*, published by the Nation Publications Limited (NPL). Some estate agents observed that *The Daily Times* is also efficient at handling classified advertisement. Hence, questions of cost and efficiency are matters that matter in advertisements for peri-urban land. Some advertisements include the physical address of the estate agents and also the telephone or mobile numbers. Most of the estate agents use cell or mobile phone given

the convenience and low level of penetration of the fixed telephone network (cf. de Bruijn et al 2009 for the same idea in everyday Africa).

Some estate agents have two sets of mobile phone, one for each of the two mobile phone service providers, namely: Telekom Networks Malawi (TNM) and Airtel (then Zain). For others instead of managing two mobile phone handsets, the ideal is to have one handset and two Subscriber Identity Module (SIM) cards for the two mobile phone providers, which are swapped from time to time. Whenever they want to call a TNM number, they would normally insert the TNM SIM card, and then change to Airtel when they want to talk to someone on Airtel network. For those who have two mobile phone handsets, the trend is to give their clients both numbers, or sometimes they would ask the client on which network he or she is, then provide that client the mobile number for that network. The rationale is that calls within the same network tend to be cheaper than calls across networks. Also, failure of service by one operator, which is common due to congestion of the networks and sometimes intermittent power supply, is compensated by switching on to the other operator. Some sale agreements show the mobile and fixed line phone numbers of signatories. Including mobile phone numbers on sale agreements is often considered a sign of commitment, even though mobile phone users are not registered.¹⁴⁶

The use of mobile phone in land transactions ranges from calling, through texting, to sending ‘call me alerts’. In many instances, for economic reasons and need, buyers do most of the calling while the sellers are on the receiving end. In many ways prospective buyers initiate dialogue with the estate agent or the seller. Whichever way, the convenience provided by the mobile phone is so enormous in defining social reality – identity, networks and relationships (cf. de Bruijn et al 2009) that are vital in transacting land. The mobile phone has also revolutionized communication among the traditional leaders and in the process it is also traditionalized. Village headmen arrange meetings with group village headmen or the traditional authority (T/A) through the mobile phone. Sometimes they would also seek advice, for example over land disputes or to arrange ‘private’ meetings where the traditional authority or the chief can sign consent forms for lease of customary land by mobile phone. For these reasons the mobile phone is “a technology of convergence” (Richardson and Third 2009:147). In effect the

¹⁴⁶ Some users change mobile numbers quite often, while some claim having several numbers for one network at any one time, some of which they rarely use.

mobile phone is minimizing the need for face to face contact; it is creating a certain level of detachment,¹⁴⁷ while also facilitating and accelerating exchanges of information. But the etiquette has not changed much. Some village headmen stoop low when communicating with the T/A (even when he is out of site) simply because a chief is figuratively the owner of the country (*mwini dziko or gogo charo*). Such tendencies reproduce social hierarchy in significant ways. Therefore, the mobile phone “penetrates and transforms everyday practices, and spaces, disrupting distinctions between private and public, face-to-face and telepresent interaction.....” (Richardson and Third 2009:146). As de Bruijn et al also put it, “The mobile phone, through the social relationships it forges or entertains, and the economic possibilities it opens up, simultaneously challenges and reinforces the status quo, allowing for consolidation and renewal in ways not immediately obvious if treated in isolation or outside specific socio-economic contexts” (cf. Bruijn et al 2009: 15).

¹⁴⁷ Detachment occurs as a result of reduced face-to-face contact. The etiquette is affected, and the place of traditional gatekeepers has become redundant. For example the position of group village headmen and also messengers are to some extent becoming redundant.



Figure 7.2 VAJ General Dealers and Phone World is also involved in land and housing transactions

Advertisements for peri-urban land are not limited to newspapers. In the city there are numerous signposts erected by estate agents and auctioneers. Some are printed on walls of buildings (figure 7.2). At some road junctions the number, size and configuration of the signposts, provide convenient space for appreciating how space as a physical and a cultural construct is imagined, defined, contested or negotiated (figures 7.3 and 7.4).



Figure 7.3. Signposts advertising the offices of **Kamu Auctioneers and Estate Agents** and **Positive Property Agents**. Besides these, another signpost advertises for used cars.



Figure 7.4 . Signpost advertising three different entities, namely Edgar & David Lawyers and **Edgar and David Estate Agents**; Arrow Security Guards services; and then Jumo Restaurant and Beer Garden

In the peri-urban villages some local estate agents have moved a step further by erecting signposts along the roads that directly advertise for land. While most, if not all, of the signposts within the city have a professional touch, the signposts in the peri-urban villages are made from recycled sheets of metal or wood boards and poles. Such signposts are erected along the main road, while others are hammered to trees on key road junctions within the villages. I will pay more attention to the signposts in the peri-urban villages.

The writing on the signposts is in paints of different colours, mostly white or black on white, grey or blue surfaces. Black letters on white background or white letters on blue surface are attractive and visible from a distance. This is not the case when black is used on grey background. The message on the signpost is simple and direct. For instance, one signpost reads ‘plots for sale’ (figures 7.7, 7.8). Some messages are in the Chichewa

language (figure 7.9). At one trading centre there are at least four signposts, of which two have been erected by the same individual(s). One of the signposts is erected in front of a bottle store. The bottle store owner is known to be a local estate agent, though he also claims that he is differently from most local estate agents, given that he operates on the model of urban estate agents. His signpost has a professional touch, probably reflecting his level of literacy and also his financial status. He hired a professional signboard writer to do it for him. The other three are not so professionally done. One is in Chichewa language. It is clumsily nailed to one acacia tree at a Y-road junction connecting residences of two village headmen, of which one is the group village headman (figure 7.9). The other signpost is painted blue with the lettering in white (figure 7.6). The writing is not as tidy as others, and there are several spelling errors. Furthermore, the presentation of the message is not uniform even for the message on opposite sides of the same signpost (figures 7.7 and 7.8).



Figure 7.5 Signpost inscribed **Vacant Plots & Houses Available for Sale** followed by a mobile phone number. It is erected close to 20 meters away from the road and in front of bottle stores.



Figure 7.6 A blue signpost inscribed **Land for Sale Cont** followed by mobile phone numbers lies low dwarfed by the signpost inscribed Ngumbe Assemblies of God Springs of Joy. Blue happens to be the colour of the ruling political party. The coincidence is startling given that 2009 was elections year. The shop in the background on the right is also painted blue and the signpost in the distant on the far left for Kalibu Academy is also blue. The academy is also built on customary land purchased for the purpose by some Christian missionaries. Ngumbe Assemblies of God church represents another consumer of customary land in the area.



Two opposite sides of the same signpost. On the left, **figure 7.7** faces traffic from the city to the airport and is inscribed **Plot for sale (Malo ogulitsa)** followed by the mobile numbers.



On the right, figure 7.8 faces traffic from the airport into the city and is inscribed **Plot for sale** only followed by the contact mobile numbers. The intended target happens to be the people driving between Blantyre city and the airport.



Figure 7.9 Signpost inscribed **Tilim'malo ogulitsa mutha kutipeza pa number izi** (We have land that we are selling. You can contact us by calling these numbers ...)

Some of the advertisements are printed on paper and pinned to trees or electricity poles within the city and in the peri-urban villages. Some are made by free hand (figure 7.10) while others are computer printed (figure 7.11). The paper posters tend to be temporary and they refer to a particular land. Paper posters could be damaged by rain or wind or easily removed by passers-by or those opposed to the practice of advertising for land. It happened with one paper poster that remained fixed to the tree for a couple of days then it just disappeared. Apparently children playing nearby removed it.



Figure 7.10 Handwritten advertisement inscribed **Plot for Sale Plus Bricks** followed by the mobile phone number nailed to the tree (Mwera village).



Figure 7.11 Advertisement for land: **Plot for sale Nyambadwe, price negotiable, with title deeds** and the contact number. This paper poster is pinned to a mahogany tree in Blantyre city, next to government offices for the south. The land is registered land in the low density area associated with Blantyre's elites.

Advertising for customary land, as it is happening in the peri-urban villages of Blantyre, is quite an innovation given that such transactions are as already described in the previous chapters not appropriate according to some conservative understanding of customs governing land access and transfers and unlawful according to the strict reading of the land law. Within the city the paper posters stuck to electricity poles or trees do not often comply with the city by-laws. Such advertisements represent ambivalent, if not just informal, uses of space given that they are not paid for or authorized by the city assembly. These diverse and disparate ways of advertising for peri-urban land are not open defiance of custom or rebellion against the state or the

municipal authority, but they represent actors' diverse ways of negotiating contemporary processes; custom, legality or illegality notwithstanding.¹⁴⁸ The creativity in the advertisements for land suggests, if not reflects, flexible and creative appropriation of emerging relations. Studies by Kaitilla attribute agency in peri-urban land transactions to some invisible real estate agents advertising the sale of land or houses in the local media (Kaitilla 1999). Such activities have been reported for some 30 to 40 years, and through that many low income urban households have been able to access residential land given that formal land and housing markets¹⁴⁹ in most developing countries are either unable or incapable of providing plots at a rate commensurate with urban population growth or at prices low-income populations can afford. Patterns like these have been observed in Abidjan (Ivory Coast), Bamako (Mali), Dar-es- Salaam (Tanzania), Hyderabad (India), Karachi (Pakistan), Bangkok (Thailand), Mexico City (Mexico), Bogota (Colombia) and Valencia (Venezuela) (Kaitilla 1999). Invisible estate agents are a part of informality, and they result from the failure of the state, which in essence creates room for disparate experimentation with various ways of meaning needs or addressing shortfalls in service delivery. Agency and creativity is open to individuals, but discussion of agency must go further than the empowerment of the individual. Using the notion of 'domesticated agency' (Nyamnjoh 2002:115) the informality and invisibility mentioned here is a mark of creativity. Agency becomes a kind of inherent human capacity, an instinct for hope or rebellion and sometimes capability such as free will or choice, and also a kind of mediating relationality (cf. Kockelman 2007). Creativity is not without its own ambivalences as the perceptions and challenges of dealing with estate agents described in the next section suggest.

¹⁴⁸ Writing in the 1990s for the Papua New Guinea (PNG), Kaitilla observed that informal land transactions were not advertised anywhere. News regarding any sale of land was done by word of mouth because open advertising would infuriate land-owning clan members who did not support or encourage the sale of land to non-clan members (cf. Kaitilla 1999).

¹⁴⁹ Formal land transactions involve acquisition of the land, survey of the land, drawing layout plan, compensation of the right of use at fixed price, compensation of improvements (often at low rates that do not cover the costs for rebuilding) and redistribution to land applicants (Scholz 2002:21-2).

Perceptions on Estate Agents' Interactions with Other Actors

Perceptions are often informed by experiences, which may also be informed or related to beliefs, competition and need (Förster 2009 on trust). Estate agents in peri-urban land transactions work for some commission, a concept that is appreciated but not well understood by many land sellers and some land buyers as well. As Mulipa (another land seller) once put it, "Usually the estate agent from the city comes to search for land. Then he asks the seller how much money he or she is expecting from the land. He does all the negotiations with the buyers. After the price has been agreed the seller comes in as witness. The agent receives the payment and he deducts any amount above the price the seller might have indicated, or he takes 10 per cent as his commission."

From one angle the estate agent is seen as a helpful person while from another angle he is portrayed as a person to be avoided. In the positive sense the estate agent is capable of perceiving need from two angles, that is, from the land seller's point of view as well as from the buyer's point of view. Villagers wishing to sell land in crisis situations as described in relation to negotiating the price of land in crisis selling (chapter 4) would often approach the local estate agent, and usually the conversation opens with the phrase '*zandivuta*' (I am in problems). Then, what follows is the litany of financial problems or obligations. The expectation is that the local estate agent as member of the village community would be conversant with the vulnerable and desperate situation of the seller. The local estate agent may activate his social contacts by calling the people who might have expressed the wish to buy land or he may ask other local or urban estate agents for similar contacts. Blessings claims having a data base of potential clients, while most local estate agents claim that they maintain the phone numbers of previous clients in their phonebooks. When need arise they turn to their mobile phones for contact details. Some local estate agents, for instance Chitseko, record the phone numbers in pocket size notebooks. Where these interventions have failed, the land might be advertised in the newspapers, normally by one of the urban estate agents.

The alternative is that the estate agents approach villagers to assist them sell land, as the case of Chitsenga mentioned earlier suggests, but the real wish is to reap where the estate agent did not sow. As Deborah James would put it, in the manner of all brokers or intermediaries, however philanthropic,

the estate agent seeks to take his cut: “creaming off a bit along the way” (James 2007a: 138; James 2007b: 212). One village headman noted with concern that:

When I see the estate agent I see a person who wants to reap where he did not sow. It would have been better if estate agents were to bring the land seller and the potential land buyer(s) together, then let the two parties negotiate and agree by themselves. What is surprising is that when the land seller says I am selling the land at K500, 000.00, the estate agent will often increase the price to K900, 000.00. What if the owner of the land says that I am taking all this money, since it is payment for my land? Will that not lead to conflict? It would be better if the seller or owner of the land would decide how much money the estate agent should collect. Sometimes estate agents raise prices so much that potential buyers fail to buy. Sometimes the prices that some estate agents suggest do not match with the size of the land. Sometimes it takes even a year to sell land just because one or more estate agents want to earn large sums of money from that single transaction. Is this not oppressing the land sellers?

The victimhood of the sellers captured in this statement leads this discussion to the ambivalent position of the estate agent. There is a common perception that there are many people who claim to be estate agents, but there are few who could be relied on. On the one hand the estate agent is a very helpful person; on the other hand the estate agent is considered a crook or conman. Many people who have bought land in the peri-urban villages are quick to advise others seeking land to be patient; otherwise some estate agent will take advantage of them. The ambivalence is that such statements are also made by people whose involvement in peri-urban land transactions is also for personal gain. One of the five village headman interviewed cooperates with the estate agents in the sense that he also acts as an intermediary to a limited extent. Given that he has such a working relationship with some urban estate agents one would expect him to have a more positive attitude. His ambivalence towards estate agents relates to delays in selling land that arise when buyers are hesitant to commit themselves partly because the estate agent has raised the price of the land quite high.

Some land sellers refuse to deal with any estate agent for fear of being short changed and cheated. For example, this happened in one transaction

involving a widow reselling her land in order to relocate to another place. For some months she was operating a butcher shop and she had a certain young man from Mozambican as her shop assistant. When asked on why she did not engaged any estate agent to assist her sell the land, given that there is one estate agent nearby her shop, her reply was that “That man takes a big share of the money. For this reason I have decided to handle the transaction.” Similar sentiments were also expressed by Njewa, a young man who was then scouting for buyers for two parcels of land. One of the two parcels was allegedly owned by his sister and the other by his uncle. The starting prices set by his sister and uncle were K700, 000.00 and K1.5 million, respectively. In Njewa’s view, the estate agent referred to above is difficult to deal with and so his family refused to let him handle the transaction. As he put it, “Another estate agent came here to check the land, but the price he indicated he would be selling it scared us. We told him off that with the prices he had in mind, we might not sell the land. We told him that we are also boys, we will find a way to sell on our own.” Then, Njewa went on to make and erect one of the signpost advertising for land in one of the peri-urban villages. In the manner of other local estate agents, from that day Njewa claims to be a new local estate agent. Other examples of estate agents overcharging have been mentioned already in connection with reselling land in chapter 4. One of them relates to three adjacent parcels of land one urban estate agent arranged to sell at K2.2 million, though the price he agreed with the sellers was K1.3 million only. The concern is that sometimes estate agents, especially those from the city, earn more money than the landowners or the sellers.

A number of actors claim that there are perceived risks working with both local and urban based agents. One person selling a piece of land at the starting price of K1.3 million enlisted the help of some local estate agents. The local estate agents could not reduce the price further than K1.1 million. Many potential buyers were then put off. When the seller met one of the potential buyers a few days later, he asked him to consider dealing with him directly because of concerns that the local estate agents appeared to be motivated by self-interests. This sentiment and others before it suggest that relations between estate agents and land sellers are sometimes characterized by lack of trust. Trust is in this sense a non-economic asset that enables the estate agents, land buyers and land sellers interact with each other (cf. Bauer et al 2007 on trust). In liberal market exchange, trust rests on the credibility

of institutions governing exchange and relations such as perfect competition, supply and demand trends, predictability and impersonal self-regulation (cf. Johnson and Johnson 2005). When the exchange environment is not institutionalized, or when information is monopolized by certain groups, trust is constructed on personalized relationships, knowledge of other's personality, family, history, among others (Narotzky 1997). With diminished levels of trust or the lack of it in some estate agents, land sellers and land buyers opt to bypass estate agents who might have brought them together in the first instance. Exclusion of the estate agents happens when the estate agent is perceived as a stumbling block or it is feared that he might eventually betray the trust of the seller and the buyer.

Betrayal would take different forms as narrated in the previous chapter in relation to the involvement of the police in dispute resolution. Here I will add some more details. Some estate agents would want to receive money on behalf of sellers and it is often feared that they may elope with it. Some urban estate agents breach agreements like sharing the commission with the local estate agent or the person who notified them about the existence of the land. For example, one estate agent representing Zatherapano Estate Agents sold land in Mwera village at K800, 000.00 for which he collected K80, 000.00 as commission. It is alleged that the agreement with the local estate agent was based on a 50-50 share of the commission. However, when he received the commission he paid the local estate agent K5, 000.00 only. Then the local estate agent mobilized some of his friends within the village to beat up this urban estate agent. The urban estate agent was rescued by the village headman. As the village headman put it, "That urban estate agent is not free to operate in my village. He attempted to cheat some boys who decided to teach him a lesson. I rescued him from their hands when they were about to beat him up." Apparently, the day I met with this urban estate agent in Mwera village, he refused to go with the village headman to inspect one parcel of land put on sale by the young man he cheated in the previous transaction.

From these few observations some estate agents, if not many, are motivated by the possibility of earning quick money. This is manifested by the tendency among estate agents, especially urban estate agents, to raise prices of land to levels that are speculative, including their demand to collect and keep for themselves at least 10 per cent of the price as commission, and also the effort they put to coerce villagers into selling land or buyers to pay

for parcels of land that might not be suitable or attractive. One of the land buyers complained about some estate agents calling her mobile phone several times a day and at awkward hours. In another incident, after a few hours following the viewing of land, the estate agent called the prospective buyer to find out her position about the land she had been taken to. Instead of asking her directly whether she would buy or not, the estate agent posed the question as follows: "Some people came and have expressed interest to buy the land. I am afraid they might grab it before our own eyes." When I suggested that the estate agent might have been trying to help her, her response was that "He expects some benefit. *Dobadoba*- is it his land?" To some degree there is a perception that the boundary between being estate agent and being a manipulator is very thin and permeable.

The position of village headmen in relation to the estate agents is equally ambivalent. Village headmen claim that they are not involved directly with estate agents and how estate agents' work affect the sellers because that is a matter that hinges on the understanding between the land seller and the estate agent. The village headmen come in as witness between the seller and the buyer, and not the agent. In this way the role of the estate agent is assumed to be less pronounced, even if the estate agent might have brought together the seller and the buyer, and in some transactions prepared the sale agreement. But, when there are disagreements between the seller and the estate agent, on how much money should the estate agent collect after a successful transaction, the village headmen claim that they often stand behind the seller. One village headman reported asking some estate agents not to insist on taking more money than what the seller is willing to let them take. This standpoint emphasizes the primacy of the rights of the seller who is one of the members of the land owning village community while the estate agent, the urban estate agent in particular, might be a total stranger. In this regard the ambivalence of the estate agent is that of a 'stranger' benefitting from land that does not belong to his lineage. This understanding applies to local estate agents too. Local estate agents often operate in several neighbouring villages other than their own, and they are in that sense outsiders or strangers when operating outside their own village. As the village headman Mwera pointed out, "I have been against the practice of anyone from within my village acting as estate agent for land that does not belong to him or his lineage, unless that person is asked to do so by the owner. If that happens, there is nothing I can do since it is an agreement between the two."

When dealing with the buyers estate agents are quick to suggest that there are several other people interested in a piece of land under consideration even when there is no other potential buyer interested in it at that material time. One would think that the estate agent is empathizing with the would be buyer who might lose a life time opportunity to buy and own good land, when in essence what the estate agent is interested in is to address his own uncertainty of not selling any land and therefore not getting some commission. For instance, one of the estate agents by the name of Kachala is well known for telling would be buyers that “I omitted to give you my mobile number. It is important that you have it. Please call me as soon as you have made up your mind. But you have to hurry up because another lady phoned me this morning and she is particularly interested in the same plot.” Sometimes the estate agents are also dishonest with buyers when selling land that has no direct road access. With few exceptions of local estate agents, the estate agents are quick to claim that the road will be available or that someone has already pledged to provide space for the road. Often such statements represent the wish or expectation that space will be provided. Yet, land buyers are given the impression that the road access is either part of the price for the land or that the space will be provided free of charge. Later, some buyers complain having been given a raw deal when they are asked to pay larger sums of money in respect of space for road access as described at length in chapter 6 in relation to land disagreements.

A point to be emphasized is that the agreements between estate agents and land sellers are usually verbal. Where the seller identifies the buyer or sells the land through another estate agent, the position of the estate agent contracted earlier on is uncertain. Some estate agents, both local and urban estate agents, claim that the agreement is not binding and they do not expect any payment, but other urban estate agents claim that they would often ask the seller to refund or compensate them money spent on advertisements. Other estate agents claim that they expect the seller to pay them up to 5 per cent of the price. In one transaction, involving land sold at K300, 000.00, there were two estate agents, a local estate agent and one urban estate agent. The local estate agent managed to sell the land and he collected 10 per cent as his commission in a transaction that took place on a Sunday. The urban estate agent claimed some money from the local estate agent on the pretext of having spent some money on advertisements. Yet, the urban estate agent did not spend any money as he claimed.

For the reasons described already, it is common that some land sellers and people looking for land insist on dealing directly with either the buyers or sellers, respectively. This aspect is made explicit in some newspaper advertisements for land or houses as some sellers and buyers are eventually trying to reach out to customers directly. It is common for individual advertisers to indicate that they are not playing ‘estate agent’ or interested in dealing with estate agents by adding the phrases “No Agents involved”, “No Agents Required”, “No Agents Please” or simply “No Agents” (figure 7.12). This novelty shows clearly that there is an image problem that estate agents have to contend with at least to overcome the negativity the public has towards their work. Some urban estate agents use or coin business names intended to portray a better image just like Tito’s Positive Property Estates Agents. Other names with the similar intent include Honest Estate Agents, Justice Estates Agents, Prudential Estates Agents; Perfect Gift Auctioneers and Estate Agents, Professional Workers Agents, and Happy Homes Auctioneers and Estate Agents.¹⁵⁰

¹⁵⁰ Such names appeared in *The Nation*, 16 December 2009; *Daily Times* 20 January 2010; *Daily Times* 16 January 2009. The effect of such names on the perceptions of the public would reveal how the public responds to ‘catchy’ names. Suffices to state that the estate agents are also part of the public and probably have genuine cause to believe that names mean what they convey.



Figure 7.12 Newspaper advertisements in the classified ads. Note in the dark field below ‘403 House to Let’ the last line reads “**No Agents Please**” *The Nation* 27 January 2010

Further, relations between local and urban estate agents are not mutually beneficial and sometimes also problematic. Besides the transaction in which the Zatherapano Estates Agents paid K5000.00 to the local estate agent while retaining K75, 000.00 for himself, Gwembe also claimed receiving K2 000.00 only in some transactions, while the urban estate agents retained K20, 000.00 or more. Here, I am not interested in the amount of money received or shared, but the perceptions, expectations, and the framing of relational issues between the local and the urban estate agents.

Some local estate agents claim that it is not possible for urban estate agents to directly search for land in the villages. The local estate agents are right to some extent since most urban estate agents normally go through some villager or the village headmen. That is, there is always need to have at least some contact person based in the village. Maziko, another urban estate agent, pointed that he has two friends in the peri-urban villages that help him. These two friends function like local estate agents, but he insists that the

better term for them is contact persons to justify the fact that they do not take a commission. One of these contact persons is based at Kameza, while the other at Green Corner. Maziko observed that the contact person in Kameza has helped his business as estate agent to grow. The agreement is that Maziko pays him some money every month, instead of a commission, on the pretext that he is an old friend from primary school days. Besides playing 'contact person', he is also involved in artisan brick making. As such, his main interest is that clients buying land through Maziko and other estate agents would also buy bricks from him. This symbiotic and complementary relationship is rather simplistic. There are other complex manifestations in the relationships between local and urban estate agents. There is some form of invisible networking comprising local agents and urban estates agents and nodes of beer drinking joints selling both opaque and bottled beer. Villagers would usually meet the local estate agents and also some village headmen at these drinking joints. Drinking places selling opaque beer like the one described earlier where I interviewed Gwembe provide convenient spaces in which the local estate agents collect information that they transmit to some 'head estate agents' at the bottle stores, where potential buyers from the city would sometimes congregate. This network does not imply that the local estate agents' horizon ends with the 'head local estate agent'. They collaborate directly with several other urban estate agents. In this maze of local estate agents-urban estate agents, flows of information about land tend to be unpredictable while flows of money received as commission depend on who is lucky to sell a particular parcel of land, and who is also considered relevant to merit receiving at least some share of the money. As Gwembe observed:

Usually we have trust in the urban estate agents. When the urban estate agent has finally reached agreement with the buyer he would normally tell us that this is the day the payment will be made. At this point the urban based agent gives us some money. I have to get something for having helped in a land transaction. I am also supposed to know the price, and also confirm with the land seller that in deed he or she has been paid. But, sometimes I may not hear word from the (urban) estate agent. Probably what I may hear from the land seller is that the land was sold. I may hear it probably after two weeks or even after one month. That is already too late. If I try to follow up

with the urban estate agent, he might say he does not know about it, or that the one who facilitated the transaction is probably a different estate agent.

Being a local estate agent is sometimes described as not an enviable position and to some degree, networking with urban estate agents is apparently a domain in which relations of dominance and subordination between the rural and urban are also defined and contested (cf. Knox, 1982: 224 on dominance and subordination in social relations). On one afternoon I met Gwembe and Fanuel at one grocery store. The two local estate agents complained of having nothing to eat. Having nothing to eat could mean destitution in the literal or figurative sense. Gwembe said, “I have not seen you lately. I thought you have forgotten us. It is true that God answers prayers. I don’t have money for food. I thought I will die. Since you are here I know I will not die. Will you let me die? Look at me; I have not even taken a bath.” Gwembe might have been wearing the same clothes for days - a khaki shirt which revealed a black T-shirt he had inside it and a pair of faded blue jeans trousers. Standing some metres away were some young men who claimed not to be estate agents, but were nevertheless available to assist others sell or buy land.

Disguised and Straddling Estate Agents

Owing to negative perception towards estate agents several people in the peri-urban villages are sometimes hesitant to declare that they do the work of estate agents. Often they call themselves as people who are just eager to assist others (*wongothandiza*). In this way they disguise their presence and self-interests as estate agents. As Francis Nyamnjoh writes on development and witchcraft discourses in Cameroon the “opposite or complement of presence is not necessarily absence but invisibility” (Nyamnjoh, 2001: 29). Invisibility means that they are able to reorient themselves in the labyrinthine world of estate agents without suffering the negativity associated with being estate agent. Also, it means operating against established meanings and sometimes relations while also assuming and building on taken-for-granted relationships. I will build on accounts of different actors of this nature to add depth to what accounts for it and what it points to. As with all other actors I am interested in the practices and relations that structure the interactions.

Some of the people playing invisible agents often hang around verandas of bars or grocery stores or other strategic positions along the main roads. I

met Chipenda midway through my fieldwork. He claims that in the past he used to run a small scale business in Blantyre city involving the selling of new clothes which he usually bought from Taifa market in Mzuzu (Malawi) or Kiyela (Tanzania). Due to cash flow problems he stopped selling clothes. Sometimes he helps people sell or buy land. Yet, he is reluctant to call himself an estate agent. As he put it: "Since many people in this village know me as someone who goes into the city quite often, and that I do have contacts with people in different companies in the city, some people ask me to help them find someone buy their land. Recently, I have assisted three people in that village; though only two transactions ended well. The third transaction flopped when the sisters to the seller rejected the decision to sell the land." Similarly, while engaged in conversation, for the third time, with another young man who a few months earlier arranged to sell on behalf of his cousin a crop of maize before harvest, he drew my attention to another parcel of land which his cousin planned to sell. When I asked him whether he was playing local estate agent, his reply was that he has never acted that way. As he put it, "I have never done it before. I am not involved in this business of cheating other people. I am only trying to assist my cousin sell the land. I am not expecting any monetary benefit. The moment one becomes an estate agent life becomes difficult. Sometimes estate agents bargain their own life." Yet sometimes some people playing the role of local estate agent cynically disguise themselves by claiming to be a cousin or nephew to the owner of the land.

Straddling is an ideal illustrated in the encounters with three young men aged 22, 23 and 32 suggest. All the three are economically active, though they referred to themselves as not gainfully employed. The youngest of the three works as a domestic worker and on this particular day he was assigned to sell *thobwa* (home brewed sweet beer) by the road side. The oldest of the three works as a security guard at one of the nearby houses under construction. The third is engaged in *ganyu*. All the three happened to be single and they talked about the need to be financially independent before considering getting married. They claimed that if I were interested in buying land they could look for one. 'Looking for land' happens to be one of the popular expressions as my encounters on the same day with Milward also suggest. After interviewing Milward for an hour he observed that if I were interested in buying land, or if I know someone who might be interested to buy one, he could help. In his view it is not a challenge to find land given that there are

many peri-urban villagers who are willing to sell land. Given this trend if he were to go round the village where he lives, he could by the following morning come up with three or four offers. The ease with which it could be done rests on understanding the prevalence of the practice of selling land as outlined in chapter 4 already and also the hype and expectations for cash earnings common in these taken-for granted face to face actor networks as discussed below and continued in the next chapter.

Land money is tantalizing. Even those who claim to be disinterested in making money for helping others find land would wish they could. One of such men observed with concern that he could not remember that somewhere there was land being offered for sale the time one local estate agent came to his house to inquire about land on sale. In apparent reference to the conversation he had with his wife the previous morning, he noted that: “This morning while in the house I heard my wife talking to someone who was looking for land. I told her to tell that person that there is nobody around who is selling land. When the inquirer had left I realized that I have missed opportunity since I had some information about a certain piece of land. I blamed myself for this lapse of memory and for having lost that opportunity.” The opportunity here relates to the chance to earn some money in exchange for providing leading information. Yet, such a person would not call himself estate agent.

One encounters situations where the people assisting this way express misgivings for having to take some money as ‘thank you’. Also, there is a tendency to delegitimize the ‘thank you’ as some form of corruption as is often the case with the signing fee collected by village headmen. I will illustrate this aspect by drawing on my encounters with Agama. To begin with, in the peri-urban villages one would often encounter loose usage of the concept corruption (*ziphuphu*) in the everyday interactions, due in part to the gross misrepresentations about some cases of corruption the Anti-Corruption Bureau (ACB) has been prosecuting recently.¹⁵¹ For this reason the way the concept of corruption is used in everyday interactions does not always convey wrongful doing. Agama is a security guard at one of the new

¹⁵¹ The most talked about corruption case involves the former head of state President Bakili Muluzi who is alleged to have stolen K1.7 billion (US\$12 million) in donor grants. Muluzi’s appeared before the High Court in Blantyre in September 2010 and he pleaded not guilty. (Wezzie Nkhoma Somba, “Muluzi denies stealing K1.7 billion”, *The Daily Times*, 15 September 2010).

houses that is under construction, a fact that did not appear evident in my first encounter with him. Then, he claimed that he is a bricklayer. Later on Agama offered to help another man find land on condition that he would be paid some money. After stating this condition – the wish to have a thank you, Agama added *kolapushoni sizatha* (there will be no end to corruption). I suggested that receiving payment or some money would not be corruption, rather taking a ‘thank you’. Agama nodded in agreement. On another occasion Agama revealed that he is not a bricklayer as he claimed earlier on, though he stressed that he has some experience building houses using *zidina* (bricks made by a big mould) rather than the standard brick (*njerwa*). Sometimes he meets people looking for brick layers, and he enlists experienced bricklayers from whom he receives a ‘thank you’. On one occasion a former member of parliament (MP) and minister of finance asked him to lay tiles for him, even though he has never fixed tiles before. He asked someone else to do the work for a labour charge of K10, 000.00 out of which Agama received K200.00 (2 per cent of the cost). Agama claimed that it was good money given that he did not do the work himself. Then he repeated the earlier sentiment that it could be corruption. The concept of corruption is appropriated in everyday encounters in the selling and buying of land to give meaning to the gains peri-urban villagers derive directly or indirectly, and legality and illegality, notwithstanding.

Focusing on the ‘thank you’ or commission overshadows and under represents the motives that some peri-urban villagers have in playing invisible estate agent. Many young men who are jobless are eager to meet some serious potential buyer whom they could assist buy land, not primarily for the reason of being paid some ‘thank you’ only. Like Agama the wish is that they might be employed as security guards or *ganyu* on long term basis. This aspect reflects the problems of unemployment, insecurity of work and the need for income earning opportunities. I will illustrate this aspect by drawing on encounters with James, whom I met at one grocery store. We (I was accompanied by a friend) picked James with the intention that he could lead us to his home village to meet with his grandmother who was then selling land. On our way back we found a group of women selling raw and roasted green maize. We stopped to buy some roasted green maize to quench both our appetite and hunger. James addressed the youngest woman in the group in a manner that revealed that they were probably familiar with each other quite well. Then I asked James how he came to know her. James claimed that

he knew her while working at one of the poultry farms nearby. James and this young woman were work mates until December 2009 when they were dismissed. While the young woman found something to do, that is, selling green maize along the road to the airport, James claimed suffering from lack of opportunity for meaningful work. As a young man, he claimed that he could not go into the selling of green maize. When we reached the place we picked him, we found his other friend waiting for him. Before joining his friend James said “We are jobless, we are looking for work but we can’t find one. Probably you know someone who can hire us.” He added that “When I assist the bosses buy land I expect to receive some cash, some sort of thank you. But, what I want now is not just the cash, but that the boss should employ me as a security guard.”

Many security guards on construction sites in peri-urban villages describe themselves as site agents to connote or imply that they are building the boss the house (*kuwamangitsira nyumba a bwana*). In some situations the security guards play the role of storekeeper and by that they control virtually the flow of building materials. In some situations payment to suppliers and transporters of building materials is made through the security guard and in this sense the guard would describe himself as being in-charge of the project. Doing so creates an aura of self-importance, which some security guards use to their advantage. The advantage comes through clandestine selling of the building materials like cement, conniving with suppliers of bricks and sand to falsify quantities of the materials delivered on site, and then shared the money. Other opportunities include *ganyu* for oneself and the spouse involving the drawing of water, and for those who are gifted or clever enough, some on job training as artisan brick layer, carpenter or plumber.

With respect to theft of building materials one of the much talked about story relates to one of the big houses, whose owner died a couple of months before the start of my fieldwork. The owner could buy 50 bags of cement at any one time, which meant that his security guard and the foreman had lots of cement to look after and to work with, respectively. The security guard controlled access to the cement and also kept inventory of all the building materials. It is alleged that in the course of building the house the security guard managed to steal at least 40 bags of cement, basing on estimates by the foreman, which at the prevailing price of K2, 200.00 per bag of cement amounted to a loss of K88, 000.00. The matter was discovered when the guard failed to account for the missing wheelbarrow. One of the assistant

bricklayers revealed that apart from selling the wheelbarrow, the security guard had been selling cement.¹⁵² Then he was dismissed. When the owner of the house died a few months later, it was alleged that the security guard bewitched his ex-boss.

‘Just helping out’ is an alibi that land sellers to a limited extent and buyers to a large extent are confounded with. It is instructive to think of the young men ‘helping out’ as intermediaries. I will develop this notion further by drawing on the experiences of two more young men. One was then working at a restaurant and the other as cement seller. Kondi has been working at a lodge in the restaurant section for a couple of years. He described how he met one boss he later on assisted to buy land. The boss used to frequent the restaurant and over time he developed some ties with the employees in the restaurant. On one occasion he asked the employees in the restaurant if they could kindly help him buy land. He left his mobile phone numbers so that they could easily reach him in case someone would be selling some good land. Land was identified and he was invited to meet the seller with whom he agreed on the price of K800, 000.00, payable in three instalments. The first payment was to be K400, 000.00 (50% of the price) and the second and third were to be K200, 000.00 each. Later, the buyer informed Kondi that he might not buy the land because his wife considered the price too expensive. It turned out to be a pretext to avoid paying Kondi some money as ‘thank you’.

In the second case, Ludoviko born 35 years ago in the village several kilometres to the west of the airport in Blantyre, works as a domestic servant, but spends much of the day time selling cement along the road. He has been selling cement the last three years, mostly to people who have bought land in the surrounding peri-urban villages and are currently developing it- building residential and business premises, including grocery stores, lodges and

¹⁵² Such thefts explain the proliferation of road side cement sellers and unorthodox practices. Some cement sellers cheat unsuspecting buyers by selling underweight bags at full price. On the market there are two types of ordinary cement; one is known as Portland or OPC and the other Kumanga. The packaging and also the prices of the two products are different; with OPC packaged in hessian sacks while Kumanga in paper bags. The price for OPC is higher than the price of Kumanga. Besides differences in packaging it is not easy to differentiate the two products on the basis of colour and texture. There is a tendency among informal vendors to tamper with the packaging. One of the ways is by filling Kumanga cement into OPC bags then seal it with adhesive glue. In this way the vendor offers Kumanga cement at prices of OPC.

restaurants, bars, maize mills and bakeries, etc. Ludaviko is married and has three children. His wife and the children live in his wife's home village. Before taking up the present job he was self-employed in smallholder farming. He recalls that for some time he practiced *dimba* farming and then he used to produce rape, cabbage, tomato, maize onion, pepper etc. He secured his present employment through his brother-in-law (his wife's brother). Ludaviko's brother-in-law happened to be employed by the family related by marriage to Ludaviko's current employers. Ludaviko recalls that one day he visited his brother-in-law, and while there the family that later employed him came over to visit. As Ludaviko put it, "I talk too much, and during conversation with the visiting family I asked them if they could employ me or link me to their friends who could employ me". Then, the visiting family asked Ludaviko to provide them his contact details. After a few months they sent a message that he should come to their home where he was offered employment as domestic servant, even though his work involves selling cement. Selling cement along the main road gives him opportunity to interact with many people who have bought land and are in the process of building houses. Some local villagers too come over, especially those who are in the process of improving old or building new and better houses. Some villagers happen to have sold land recently, while some happen to be looking for buyers. Ludaviko regards himself as someone who enjoys helping others, and often he claims doing that at no cost. As he put it, "I have to assist those who need my help. People around here ask me to help them find customers. I do so willingly using the contacts I have established with people passing by here, especially those who come over here to buy cement. Sometimes people passing by stop over here to inquire on the availability of land. Helping people sell or buy land is something I do while doing my daily work." What makes his story relevant is what he says about taking the 'thank you'.

Ludaviko claims that he does not expect to receive money as 'thank you' or commission for the assistance he renders. Recently he linked up four people from the city buy land in different villages. Out of the four, only one of them came back to give him some money, and the amount involved was just K500.00. As Ludaviko put it, "The lady came back to give me something for Coca-Cola, but most people do not come back." Unlike other straddling estate agents who expect 'thank you' from both the seller and the buyer, Ludaviko insists that he does not expect money from the people he links up. As he also put it: "I am always busy with my work, so I do not go about

scouting for land or looking for would be buyers. I simply link up people, and to me this is not work that one should expect to be paid for.”

The notion of straddling estate agents is a metaphor for young men who are engaged in self-employment or are employed by others.. Besides that work, they also operate as estate agents. Their involvement as estate agents is disguised. As a phenomenon, it is a critique of the established activities of both local and urban estate agents. It emphasizes the significance of unstructured, casual and face-to-face interactions. For those who are employed in some work as Kondi and Ludaviko, it is actually the work that they are known for that effectively facilitate or connect sellers and potential buyers. Some village headmen and also some land buyers who link up land sellers with other land buyers, in essence, fall within this category. Such spontaneous networks facilitate a growing number of peri-urban land transactions and, as mentioned already, some land sellers and land buyers prefer such encounters to those involving ‘typical’ estate agents. For Alfred Schutz, being typical is a form of abstraction. Typification leads to more or less standardized, yet more or less vague conceptualization of common-sense thinking, and to ambiguity in ordinary or daily life (cf. Natanson 1986: 45).

Conclusion

This chapter has dwelled on intermediaries and the socioeconomic relations that are implicated. Some ambiguity and paradoxes are evident in the ways actors in peri-urban land transactions perceive, negotiate and contest the position of intermediary. One would think of village headmen and witnesses as other intermediaries, but this is not the common or implied understanding of the role of these actors as outlined in this chapter. The role of intermediary appears to be a preserve for those who play estate agents.

Local estate agents claim to be driven into this work by lived experiences of selling land, initially as members of land owning families. The same could be said for most of those who claim not to be estate agents, but just helping others acquire land. The situation is different for urban estate agents who are in the first place outsiders. Some local and urban estate agents exchange information and draw on various normative orders, including aspects of marketing and advertising, customary practices and social obligation. Reliance on signposts and the print media makes the work of urban estate agents visible, while that of some local estate agents is relatively invisible,

except for those who have put up signposts. The success of estate agents in a general sense is attributed to the social legitimacy they enjoy. In a general sense my focus on estate agents shows that, as Englund (2002b) observed in Chinsapo Township in Lilongwe, actors in peri-urban land transactions are more diverse and this diversity is also reflected at the level of expectations and practices. To some degree, even for the invisible or straddling agents, their expectations represent what Harri Englund described earlier in relation to flourishing economic informality in the post-dictatorship urban Malawi as “desperate experimentation with different possibilities under ‘abject’ economic conditions” (Englund 2002a:149).

This is true given that the proliferation of estate agents could be situated in Malawi’s macro-economic environment. Small scale businesses are struggling and unemployment is high due to lack of gainful employment opportunities. Straddling and informality of various forms are attractive survival strategies. In peri-urban land transactions local estate agents and some urban estate agents are not registered with the state and do not work within the parameters of the law, for example, the Land Economy Surveyors, Valuers, Agents and Auctioneers Act of 1989. This act stipulates that no person shall be registered as estate agent unless his professional and general conduct is appropriate. The Consumer Association of Malawi (CAMA) observed recently that there are many persons working as estate agents that are not appropriately registered as bona fide businesspersons, and also whose conduct is not appropriate for good property management. CAMA alleges that many people have since 2007 lost money and property by way of paying rentals or purchasing houses through unscrupulous estate agents.¹⁵³ On the basis of my observations, there is need to reflect on how estate agents relate

¹⁵³ The story appeared in the Nation newspaper on a number of occasions. The comment of *The Nation*, 7 October 2010, carried the title “Government should save people from dubious estate agents.” The same edition carried a story by Caroline Somanje with the title: “Cama raises alarm on fake estate agents”, *The Nation* 7 October 2010. Following suggestions by the state to start accrediting estate agents there have been attempts by some agents to form associations. One of them is the association of real estate agents (AREA). See newspaper article by Phillip Pemba titled ‘Estate agents to form association’, *The Nation*, 25 January 2011. As of March 2011, AREA claimed registering 98 estate agents, 53 from the south, 30 from the centre and 15 from the north. The interim national coordination Ken Msonda mentioned that there are sub committees and inspection teams in the three regions of Malawi to check on estate agents in order to bring integrity and sanity in their work and in the property industry. See Dumbani Mzale’s article titled: “Estate body registers 98 agents”, *The Nation*, 11 March 2011.

with other actors and so benefit financially or materially from peri-urban land transactions, influence perceptions and legitimacy of the peri-urban land transactions, the pricing of land, and also other actors' normative expectations; for example, whether and how much money should village headmen collect as signing fees.

Finally, it appears that what connects and disconnects the estate agents with the other actors are self-interests, especially the search for some ways of earning income of some kind. Taken together the roles of various actors potentially contribute in creative ways to the making of peri-urban land transactions as a social-cultural phenomenon. To some degree this chapter draws attention to the popular epistemology on which estate agents draw on daily, but also the ways they try to situate themselves in relation to other actors in various but also strategic ways. This is proper, as Francis Nyamnjoh also writes on development and witchcraft discourse in Cameroon, given the tendency for discourses of this nature to ignore or under represent the perspectives of those deprived of the opportunity to tell their own story their own way or even to enrich others' defective accounts with their own life experiences (Nyamnjoh, 2001:29). Long (2001) emphasizes the need to understand how specific actors and networks of actors engage with and thus co-produce intersubjectively their own (inter)personal and also collective social worlds. The practices referred to earlier bring into play relevant cultural and social issues and relations. Hence, as Till Förster writes on trust, "Though the main actors follow economic agendas, the process is again at the intersection of cultural and social reproduction" (Förster 2009:345). For these theoretical reasons and other more practical reasons before it, peri-urban land transactions constitute a socio-cultural space within which economic interests are pursued. Hence, this chapter opens up to the following chapter in which the main issues covered relate to the socio-economic and socio-cultural relations associated with land money and the loss of access to land among the land sellers.

Intentionality and implications of selling peri-urban land

Introduction

The commodification of land as a form of social action affects many peri-urban villagers in multiple ways given that the selling of land transform normal expectations of the actors in ways that effectively leads to redefinition of normativity in social life. For many of the peri-urban villagers the mere mention or prospects of selling land brings into play expectations of large sums of money and sometimes fantasies of prosperity. Yet, they also realize that the reality is much more complex. This chapter looks into the relationship between intentions or motivations and outcomes among peri-urban villagers with respect to the selling land and land money. It does so by exploring how land money is used by the sellers to meet various pressing financial obligations, how some sellers invest the land money in profit or income earning activities, and the interconnections between different income earning activities. Secondly, it looks into the question of how alienation of land by way of selling it is also eventually affecting notions and expectations of normality. In doing so this chapter brings into relation various transformations that are implicated, including the social allocation of labour, perceptions of marital stability, intergenerational relations, and the apparent precarious socio-political position of village headman or headwoman. Gaps in the provision of goods and services by the state and lapses in authority at different levels provide the general context within which various relations are continuously negotiated. As a continuation of the debate commenced in the previous chapters, this chapter highlights that actors in peri-urban land transactions make choices that translate into purposeful actions in their own perceived interests; subject to wider social relations and sometimes structures. For this reason there emerges “multiple realities” (Nasu 1999) given that besides the intended there are unintended consequences that eventually challenge any taken-for-granted statements of intention, relation and also perceptions of normality, and even judgments about permanence in social relations.

Needing Cash Income

Going by what the peri-urban villagers say and do there is always something attractive about selling land. The principal attraction is the prospect of earning instant and large sums of money. Very often the amount of money earned after selling land is more than what most land sellers have earned before and probably the largest amount of money many of them would ever earn at any one time. For this reason land is often referred to as wealth. In the past wealth in land meant its productivity through smallholder production of food and sometimes cash crops, at some point associated with Dr Banda's ideology of *chuma chili munthaka* (wealth lies in the land). This ideology persists in some sense, but it is more articulate in the regions and places of Malawi associated with the production of export crops such as tobacco, tea and coffee, cotton, etc. In the peri-urban villages many villagers speak about wealth in land to imply instant income realized after selling the land off. It is the debate around liquidation of land and how the instant income is used that is relevant in this section. I will focus on two themes, namely: making ends meet and investing land money in building better houses, buying driver's licences, and buying and operating lorries.

Making Ends Meet

Although the sellers often and casually describe the selling of land as giving it away, it does not always imply or lead to instant feelings of loss. I will pay attention to the pragmatic considerations and the meanings that are given to rationalize the selling of land. The explanations are often particularistic and contingent, not generalizing, on the social and economic situation of the land seller or their family. Central to this discussion is the 'hunger for cash' and how the land money is eventually used to make ends meet.

Common reasons mentioned by villagers that would often prompt the selling of land are: to raise money for school and tuition fees, for the construction of tombstones for deceased relatives, the purchase of fertilizer, to pay medical bills, and sometimes passport fees in order to travel to South Africa for work. Similar reasons for selling land have been observed to operate in other countries. Angelique Haugerud observed in Kenya that some farmers sell land in order to meet expenses such as school fees, medical

costs or bride wealth (Haugerud 1989: 79). Similarly, Susan Diduk writing for the Northwestern Province of Cameroon observed that the economically marginal dispose of land when they are in need of money for medical bills, death ceremonies and bride wealth payments (Diduk 1992). In Blantyre, in some transactions the decision to sell land comes up as a way of solving or simply calming down disputes related to inheritance of land or houses as described in chapter 4. Death is also among the reasons that families mention as driving them into selling land, for instance, the need for money to buy a proper coffin. I have alluded to all these aspects earlier. I will add a layer of depth by providing concrete details one would encounter in everyday life and by that explore some of the contradictions even as the selling of land is often celebrated as a strategic choice.

Whenever the peri-urban villagers speak about the decision to sell land they often make causal connections between selling land and outcomes of using the land money and such associations are not value free. Several incidents show that selling land to offset costs associated with sickness or funeral expenses, for example, is often one of the factors among many. Also, according to several informants, land money is subject to misallocation and misuse such that selling land does not normally lead to amelioration of the problems. Some land sellers would claim not having definite goals in mind, and so land sellers' intentions are sometimes "after-the-fact rationalizations" (cf. Ortner 2006:135). I will begin with the story of Mark.

Mark

Aged 32, Mark works as a security guard at one construction site along the road to the airport. He happens to be the first born child in a family of three children. Mark's parents died several years ago. Owing to that Mark claims he had no opportunity to complete secondary school education. For seven years he worked at a confectionary factory in Blantyre city, but he lost his job in 2008 when the company retrenched some of the employees. Mark's sister, who is five years younger, is a shop assistant at one second hand (used) clothing shop in Blantyre, which is operated by an international charitable organization. The youngest of the three was then terminally sick. Mark's older sister spent the nights as guardian for the ailing younger sister who was then admitted at the government hospital in Blantyre city. During the day, the ailing sister was being looked after by a distant aunt. Between them they have three pieces of land inherited from the deceased parents. On two of the

three parcels of land there is one uncompleted house each, while the third parcel is bare land. They use the bare land to grow some maize. Mark observed that their wish is to sell either one of the uncompleted houses or the bare land, and use the money to complete the house(s). They would also meet other expenses, including construction of tombstones for the deceased parents. When I met Mark some two weeks later he repeated his wish to sell the land. His ailing sister had passed away during the week before. The death of his sister made the decision to sell the land more urgent. Many expenses were incurred during her sickness and funeral.

This narrative suggests that medical and funeral expenses are among the heaviest financial burdens peri-urban populations have to bear. However, Mark's loss of both parents some years back brings into focus the epiphenomenon of orphaned children. In the peri-urban villages of Blantyre there are many child headed households, some of which lack both leadership and material or financial support. In such circumstances the selling of land by young people suggests and often it is rationalized that the parents passed away, and the taken-for-granted assumption is that the young people are then the elders. As village headman Mbanga put it:

There is an increase in the number of people selling land. The increase is in part due to the rise in the number of orphans. As you know we have a big problem of HIV/AIDS related deaths. But we do not allow anyone to sell land just because he or she is an orphan. It is necessary that the orphan child should have valid reasons, for example, the need for money for school fees or food. Some of the families are headed by children. Such children have big problems that the village headman cannot manage to assist. If their relations approve that such children should sell part of their landholding, the village headman has no moral standing against that. As a village headman I have no power to stop anyone from selling land.

Apparently, the rise in peri-urban land transactions is attributed to the poverty of village headmen who benefit materially from the transactions as described in an earlier chapter. Desperation is then the mother of necessity. Necessity is more evident in relation to meeting sickness and hospital expenses as mentioned already, but the ultimate decision to sell land to meet these expenses is subject to specific circumstances of the individual or family concerned, and to some degree in relation to the capacity of the state to provide health services. I will illustrate this point by drawing insights from few more situations encountered at different points during my fieldwork.

In the first instance, in Mwera village, a woman age about 50 years old was approached by a businessman who wanted to buy her land to supplement the land he had already bought from the family of the village headman for the purpose of establishing a private school. She refused to sell the land arguing that she needed it for herself and her children. But, two years later, she changed her position in order to raise money to pay for her medical and living expenses. Her illness meant that she could not work or do anything for herself. Although she has siblings (sisters), who could be expected to provide care, they were not particularly so keen to assist. Withdrawing or not providing care is becoming a norm when villagers are confronted with prolonged sickness of family members. Hope is overtaken by pessimism and sometimes stigma. Where the care givers are also in need, coupled with faltering traditional values that privilege family cohesiveness, care could be provided by those within a narrowly defined family circle. This phenomenon is related to the selling of land by orphan children as described earlier. Both are probably more connected to the view that “All of Africa's famines are now AIDS-related: hungry people lack the strength to fight off sickness, sick people lack the strength to grow food, and dead parents cannot teach their children how to farm” (*The Economist* 2004:13 as cited in Nyamnjoh 2005:296 – 7).

A similar situation affected another family in another village, comprising of two grown-up young men in the late 20s and early 30s, and their younger sister in the early 20s. Like Mark, their parents passed away some years back. The two young men are married. One lives within their matrilineal village, while the other lives at a nearby trading centre with his wife. The one who lives in the village earns his living by *ganyu* and subsistence farming, while the other one is a minibus driver. The young woman got married but her husband deserted her while pregnant. She delivered her child by caesarean section at a mission hospital located some kilometres from their village. The hospital bill was higher than a normal delivery. She did not have the money and her brothers too could not raise that money there and then. The brother who lives in the village suggested that they should borrow money, and then sell a portion of one of their two parcels of land in order to square the debt. The other brother suggested that renting it out would be the better option, given that the amount of money needed was not substantially big. In the course of the year the family from the city that rented the land offered to buy it, but they refused.

From these two accounts and as many peri-urban villagers would suggest, there is need to appreciate the specific mitigating circumstances to any situation involving the selling of land to square medical or sickness expenses. The capacity of the state to deliver on essential services, and local peoples' perceptions and expectations also require some consideration. For instance, although there is one public health centre close by and the distance to the central hospital in Blantyre city, where the sick can expect to receive treatment for free is not too long, there is some preference among the peri-urban villagers towards seeking medical services at private clinics or the church run (private) hospital. The primary reason is that the public health centre suffers from drug shortages, even for common illnesses, for example, malaria. The desperate state of affairs emerged when Blantyre, and the entire country was hit by measles, which affected over 77,000 people in a period of six months and 195 lives were lost nationwide.¹⁵⁴

Besides meeting medical costs, sometimes the decision to sell land is inspired and logically linked to the need to raise money towards building tombstones. This is illustrated in the story of Mark mentioned above and also in the account of Peterson and his three siblings (two sisters and one brother) who sold land at K240, 000.00 to their former neighbour. They used part of the money to build a 'better' house for themselves in another part of the village, a few kilometres away from the main road, and also to build the tombstones. Building tombstones is often associated with the belief in the power and presence of ancestors in everyday life. Chinangwa who sold land at K300, 000.00 in 2008 spent most of the money, about K250, 000.00, on building more than 20 tombstones and on organizing a feast for the people who assisted with the work on the tombstones. Chinangwa observed that

¹⁵⁴ See newspaper article by Felix Mponda, "Measles kills 195" *The Sunday Times*, 15 August 2010. Some sick people in the peri-urban villages were admitted at the mission hospital rather than the government's central hospital in Blantyre city. One of the reasons is that the government hospital's capacity is limited. Some patients who cannot find bed space literally sleep on the floor. Although the state advocates that prevention is better than cure, the spread of measles in the first half of 2010 was aggravated by the laxity of the state to fund the vaccination programme in good time. While the state was failing to raise K600 million required to vaccinate 6 million children up to the age of 15 years at an average cost of K100.00 per child, some private hospitals in Blantyre city were offering the vaccine at K500.00 per child. In some public health centres medical personnel vaccinated their children and children of their relatives using vaccines procured for the routine vaccination of new born babies.

several of his deceased relatives died from AIDS related illnesses. He referred to the building of tombstones as an act of correcting unspecified family wrong over and above honouring the deceased ancestors. Prior to selling the land Chinangwa claimed experiencing sleeplessness and nocturnal visitations by spirits of deceased relatives, and also suffering from various unexplained ailments, with signs such as pains in the head, neck, shoulder and chest. He went to seek treatment at different clinics and hospitals and traditional healers, but all of them failed to diagnose the problem. Later, he was advised to take the dreams he was having seriously. After selling land and building tombstones, Chinangwa claims that he got well, though he admits that the illness impaired his vision. Similarly, Dzingo spent K170, 000.00 out of K370, 000.00 earned from selling land on tombstones for his parents and the balance on school fees for his younger sisters. As Dzingo put it, he is a mechanic by training and a transporter. He runs the trucks inherited from his deceased parents. At one time the business was not progressing well, and he claims receiving advice from elders that probably he should build the tombstones of his parents to appease the spirits that were ostensibly making the business to stagnate. Like Chinangwa, Dzingo and his siblings decided to sell some land to raise the money needed for that purpose. Since then he claims that the business has picked up. A point to be emphasized is the belief that ancestral spirits live on in the minds of their living descendants and can influence the welfare or destiny of the living (cf. Astuti 2007). As such, building a tombstone is often a ritual performed in honour and sometimes to appease the dead.

Although the selling of land is inspired by pragmatic concerns, it does not always imply that selling land eventually leads to amelioration of the problems. Many people are also likely to say that in many cases the benefits of selling land tend to be negligible. In a semi-focus group discussion with a group of brick layers in Chikowa village, one of the participants observed that his mother sold land at K200, 000.00 a few years ago in order to raise money for school and tuition fees for his siblings. The young ones who were then in secondary school managed to complete their secondary education, but one of the siblings who was then already out of school, and who needed a portion of the money for motor vehicle driving lessons, squandered his portion on beer. Even though this is an isolated case of land money misallocated among the members of his family, he added that: "Money obtained by selling land is like money obtained by theft. There is nothing

good that people do after selling land. It is cursed money.” I would think that selling customary land either to erect gravestones for deceased parents or pay schools fees for children represent a great irony given that it debases the sacredness of land as the link between generations, that is, that land belongs to the dead, the living and the unborn. In some of the cases it manifests changing perceptions, priorities and value placed on education as a future source of success in relation to subsistence farming as a source of livelihood.

Apparently, land money makes the sellers relatively ‘rich’ but some fail to use it wisely. It makes some people turn wild and in this sense much of the land money is spent on consumption of beer, prostitutes and sometimes marijuana. Eventually a good number of people also claim that very few people can demonstrate that their lives changed for better after selling land. This happens because many young men think and appear to achieve esteem mainly through immediate and conspicuous consumption. Sometimes the money is often exhausted in the course of sharing. Such experiences agree with Susan Diduk’s observation for Northwest Cameroon that land sellers sometimes spend the land money with abandon on entertainment, clothing and self-indulgences (Diduk 1992:205). Yet, there are also some success stories, and these relate to investments that some land sellers make using the same land money. Owing to this possibility that some land sellers make wise use of land money, misuse of land money is rarely attributed to misfortune, bewitchment or anger by ancestral spirits. This is unlike among the Luo studied by Parker Shipton where money gained from selling inherited land for personal gain is called *mekech*, bitter or evil. Among the Luo such money must be kept out of sacred spheres such as marriage payments, particularly for a marriage to a second or subsequent wife, seen increasingly as a luxury for a man. The belief is that if mixed up without being ritually purified, ‘bitter money’ brings sterility and death by the agency of ancestral spirits, divinity, or both – to the seller and his family and lineage (Shipton 1992: 365). The subsequent sections turn to the wise use of land money in peri-urban Blantyre.

Investing the Land Money

One of the first stories encountered in relation to investing land money is about one woman who lost her husband a few years ago. With the consent of the family of her deceased husband she announced her intentions to sell the

land she owned so that she could use part of the money to pay her travel expenses to Zimbabwe, where she was born and most of her biological relatives live. Apparently her deceased husband was one of the former return labour migrants to Southern Rhodesia as Zimbabwe was known before independence. She sold the land but she felt she could not travel back or return to Zimbabwe at the time many people in Zimbabwe were flocking to neighbouring countries and overseas on political and economic reasons. She used part of her money to start a cross border business.

Land money increases individual's and families' purchasing power. Besides meeting school fees, medical expenses, buying coffins or building tombstones as outlined earlier on, some land sellers use the land money to buy livestock (goats and pigs in particular), radios, bicycles, and corrugate iron sheets. Other people use land money to establish small scale businesses, for example, opening mini-grocery shops, renting land for brick making and many others. On investments often associated with land money, I will focus on three aspects of it, namely: building better houses, buying driver's licences and buying lorries. Apart from the intentionality and strategic action that is manifested in these three investment activities, the building of houses and buying of driving licences or vehicles are social practices emerging from relationships of habitual iteration on the one hand and judgment and imagination on the other. I will highlight symbolic and contested understandings, and practical relational and structural issues that are implicated.

Building Better Houses

Many of the land sellers often mention the wish to improve their shelter as one of the motives for selling land. Many traditional houses are made of simple materials like green or mud bricks, poles and grass as mentioned in chapter three. The houses are by and large temporary given that the materials used have a limited lifespan. Such houses require constant maintenance, especially for the grass thatch roof. Given the growing scarcity of wood and grass maintaining such houses is becoming quite a significant challenge. The desire to build better or modern houses ranks high and very often it is pursued as a symbol of success. This is often the case among the women selling land given that land money increases their purchasing power.

A patrilineal aunt to Tambala sold a big parcel of land at K900, 000.00 and she used part of the income to build herself a new house. After allocating or sharing portions of the money to her relatives, a group that included primarily her brothers and sisters, she retained a significant amount for herself. Thereafter she hired labour to mould bricks, and then bought corrugated iron sheets and some cement. Instead of the mud floor the new house has a concrete floor. In comparative terms she has managed to change her life for better. A similar situation is replicated in the story of Nanyoni (Mbewe's sister) described in chapter 4, who sold land just before the end of my fieldwork at K600, 000.00. Part of the money went to her brothers and sisters as described earlier. Then she used part of her share to buy corrugated iron sheets. Within one month following the selling of the land she replaced the grass thatch roof with a corrugated iron sheet roof. Unlike in the first scenario of Tambala's aunt, she did not have to build a new house. Like Tambala's aunt, she was at the time of selling land divorced, but soon after she remarried.

In a similarly success story, a young man here named Maxwell sold land at K80, 000.00. The buyer happened to be Maxwell's distant relation from within the same village who had just returned from work in South Africa. The buyer's family is one of those families in Chikowa village that have sold almost all the land such that they do not have any land left on which to build new houses or to cultivate. Members of such families seeking to build new houses buy land from other families who might be related to them in some way. In the past they could expect some free land.¹⁵⁵ After collecting the land money Maxwell went to the city where he bought corrugated iron sheets for three houses. That is, his own house and those of his two sisters. As Maxwell put it, his intention and that of his sisters is to forget once and for all living in grass thatched houses. In that sense, Maxwell implied that he is no longer going to live in a grass thatched house like any ordinary villager. For all the three houses, replacing the grass thatch with corrugated iron sheets required some modification to the walls of the old houses. This aspect necessitated the making of some mud bricks. Maxwell's sisters provided water while he worked on making the mortar and the bricks. Thereafter, they hired a brick layer to work on the desired modifications and a carpenter to fix the roof.

¹⁵⁵ Writing on land, chiefs and custom in peri-urban Ghana, Ubink (2006) suggests that a big problem that is often accompanied by the selling of customary land in some cases is the difficulties for local people to find land on which to build houses in their own village.

This division of labour is often described as the traditional practice.¹⁵⁶ In this sense, the selling of customary land to some degree reproduces the 'traditional' gendered division of labour.

A notable incident relates to the swapping of gardens described earlier on in chapter 5, where Mbalame's wife swapped her garden with her uncle's garden. Apart from receiving the field that contributes to her production of food, Mbalame's wife also received from her uncle some money amounting to K20, 000.00. On his part, her uncle used his portion to build a better house. He also spent some K15, 000.00 on buying land in another village located many kilometres away from their village, where he grows maize and a small range of other food crops.

That women are able on their own or in cooperation with male siblings and uncles to sale land and improve their housing condition raises questions on the discourse that female-headed households are likely to be poorer (cf. Department for International Development 2007), on the gendered division of labour and marital stability. Apparently, many women who sell land inherited from their mothers or grandmothers, and who proceed to build better houses are often single mothers or widows. Most of those who are still young tend to remarry and the new husband would in that sense live uxori locally. This implies the temporality of singlehood or widowhood. The new husband living uxori locally has to reconcile himself to living in the wife's better house and also to a life with very little to no land at all on which to cultivate. Better houses bolster a sense, feeling and sometimes illusion of permanence given that symbolically a house with a corrugated iron sheet roof equates to announcing that the owner is intelligent or industrious in using land money. Also, those who build better houses are considered by their peers as clever in comparison to others who spend land money on beer and sex. Yet, land money is often linked to a number of instances of marital instability as discussed later on in this chapter. The wish of some young men is to acquire the motor vehicle driver's licence or a lorry.

¹⁵⁶ As Mary Tew observed on the division of labour among the ethnic groups of Malawi over half a century ago, the man builds the house while the woman muds the floor of the hut, sweeps, cooks, brings firewood, draws water, brews beer etc. (Tew 1950).

Buying the Driver's Licence

Since the 1990s the numbers of vehicles on the roads of Malawi has been growing rapidly. This upward trend is associated with the liberalization of the economy, which at the beginning of the 1990s and throughout the last decade was associated with worsening economic situation (Englund 2006a). The smallholder agricultural producers happened to be worst affected by the devaluation of the currency, loosening of controls in domestic prices of goods, and also the volatility of prices of essential goods and services (Harrigan 2001). At the same time, those in paid employment experienced slow increases in income, following the scrapping of the policy regulating prices and salaries.¹⁵⁷ Over time there have been some improvements in the levels of income for a growing number of people. The capacity to work and earn an income, including work in the informal economy, more people than before can afford to buy cars most of which are used Japanese cars imported into landlocked Malawi through the ports of Dar es Salaam in Tanzania and Durban in South Africa. One notable aspect is the rise in the number of minibus transport operators. Currently, there are about 10,000 registered members of the minibus owners association of Malawi (MOAM).¹⁵⁸ Some of the peri-urban villagers suggested that they would want to sell land in order to buy a minibus, but I did not come across one. The increase in the number of minibuses has led to the boom in employment opportunities for drivers. Many school leavers, those without any or with minimum schooling consider work as minibus driver an important employment avenue. Acquiring the driver's licence has become, just like acquiring big and cheap land, an obsession in the peri-urban villages of Blantyre. I will turn to examine how the villagers perceive obtaining the driver's licence, how they go about

¹⁵⁷ The 1969 National Wages and Salaries Policy stipulated the need to keep wages very low. Between 1969-1981, wages declined in real terms by a factor of 34 to 40 per cent, largely because of government imposed rigidity in money wages (Chipeta, 1990). The intended goal of the national wages and salaries policy was to encourage the establishment of labour-absorbing firms, by keeping wage rates low. The second goal was to promote agricultural development by discouraging rural-urban migration. The other aim was to restrain domestic inflation and to enhance Malawi's competitiveness in international markets (Pryor 1990:158).

¹⁵⁸ The association has 4,600 members in the south, 4,400 in the centre and 800 in the north. Reported by Zodiak online following interview with the general secretary of the association. See 4 November 2010 entry by Pilirani Tambala, 'New system to curb minibus chaos', http://www.zodiakmalawi.com/index.php?option=com_content&view=article&id=1271:new-w-transport-system-to-discipline-minibus-operators&catid=34:news-top

obtaining one, and how that relates to the rise in the practice of selling customary land and to the ease with which one can obtain a driver's licence by buying.

To begin with Njewa once made a revealing statement about obtaining the driver's licence when he said: "My ambition is to acquire a driver's licence. Then I will be able to work as a minibuss driver. Already I can imagine one day sitting somewhere recalling how selling land changed my life for better. Then I will be saying had it not been for that land I could not be employed as a minibuss driver. Most of my relatives, some of them in Chikowa village, sold all their land, but they cannot show anything for it, they are now destitute." Njewa is yet to acquire the coveted driver's licence. He is married with three children, but does not have a proper source of income. He lost his job as a security guard at one of the lodges due to bad relations with the manager, whom he described as a difficult woman. Apparently, Njewa left school when he was in form 1 for reasons related to lack of financial support following the death of his parents several years back. As he put it there was no relative who could pay his school fees.

Many villagers claim that there are two challenges to obtaining the driver's licence. The first challenge relates to raising the money to pay for driving lessons and second passing a road test. The "hunger for cash" implies that very few individual can afford to raise adequate sums of money required for driving lessons and for a driving test. For this reason many young men consider selling land a viable source of money needed to acquire the driver's licence. With respect to passing driving tests many peri-urban villagers believe that motor examiners fail learner drivers to bolster the impression that it is almost impossible to pass the test without giving some bribe. Paying for driving lessons and then failing the driving test makes obtaining the driver's licence costly. Buying the driver's licence is then the popular option. It means either not showing up for the road test at all or taking the test only as a formality. The director of the state's department responsible for the issuing of driver's licences, the Road Traffic Directorate (RTD), is on record suggesting that there are two categories of such driver's licences. First are 'fake' driver's licences that are produced outside the RTD. Then there are some that are not fake in the sense that they are produced within the RTD, but are otherwise illegitimate.¹⁵⁹ It is the illegitimate ones that are in

159 Appeared in the print media on a number of occasions. For instance, the director of the Road Traffic Directorate Mr. James Chirwa acknowledged existence of fake and illegitimate

circulation in the peri-urban villages and without doubt throughout the country. Several young men have obtained the driver's licences by buying and several others are strategizing to acquire one the 'illegitimate' way.

In Mwera village, Jack sold land a couple of years ago, and then attended driving lessons at one of the driving schools in Blantyre city. After obtaining the driver's licence the legitimate way he was later employed as a minibus driver. For this reason Jack is often described as living well and so many other young men admire him. Jack claims that the money he spent after he sold the land has since been 'recovered'. He has since bought a piece of land in another village for his family, ostensibly to compensate for the one sold away. The notion of compensating the land arises because selling land implies permanent loss. It underlines the dilemma that villagers have to confront with given that liquidating land is ultimately an indication of livelihood crisis. While selling land allows the family unit meets current food or other needs, it does not allow the family as a smallholder farming unit to resume or continue normal production activities, unless it is replaced in some form, which may include buying back or renting land. Buying back land is not feasible for many villagers.

Jack's success story is just one of the few. Since Jack's success is symbolized by his possession of the driver's licence other young men are eventually seeking to obtain a driver's licence by buying. Some young men describe themselves as lucky given that they have some relatives who are currently working with the department responsible for the issuing of driver's licences. I will develop this further by drawing on the stories of Dziko and Chikho. Both Dziko and Chikho, like many young people in the peri-urban villages, lost both parents some years ago.

I met Dziko in November 2009. Then he was planning to sell land jointly owned with his elder sister and his 14 year old younger brother. Dziko's sister is married and she lives with her husband in one of the townships in Blantyre city, while Dziko's young brother, then aged 14, lives with their aunt (mother's sister) in the village. Then, Dziko's younger brother was in standard 8, the last class in the primary school level. Besides the piece of land

driver's licences. See Vera Ng'oma's interview article titled "Road safety will improve if corrupt practices are exposed", *The Nation*, 21 July 2010. Also, some individuals have been arrested for impersonating motor examiners and pledging to help those seeking driver's licence have one within a week after paying some money. See newspaper article by Steve Pembamoyo, "Man in for masquerading as an RTD officer", *The Nation*, 28 June 2010.

Dziko was planning to sell, there is another piece of land that his sister and her husband cultivate. Dziko noted that since the death of their mother, a few years ago, they have been renting the land to other people. At the time of the first interview the land was already tilled by someone from Chirimba Township, who had agreed to rent it for the 2009/2010 growing season at a fee of K4500.00. Dziko suggested that he rents out the garden because he does not need it for his living. The immediate reason for planning to sell the land was, however, to raise money that he needs to pay for driving lessons, though he also suggested that he might go for training in motor vehicle repair (mechanic). Dziko portrayed himself as someone who is not yet decided on what to do. He managed to sell the land in February 2010 at K150, 000.00. When he received his money, he spent most of it on beer, though he later claimed that he still has some that he would one day use to buy a driver's licence. Dziko talked about buying the driver's licence as a simple matter. He actually referred to Chikho who bought his driver's licence some three years earlier. A similar story applies to Mbalame. Towards the end of 2009 Mbalame sold land at K250, 000.00. As he put it: "When I received the money I gave my sister K20, 000.00 and K15, 000.00 went to my brother. The following day I went to Lunzu trading centre where I opened a bank account with the NBS Bank. Whenever I have financial problems I go to withdraw a little sum of money. My sister and brother did not complain that we did not share the money equally. Instead, they encouraged me to proceed with my plans to acquire the driver's licence so that in future I could support the family in the event of unforeseen circumstances." That is, obtaining the driver's licence is an achievement in the context that one would be able to support members of one's extended family unit (cf. Nyamnjoh 2002 on domesticated agency).

The overall costs of buying the driver's licence are quite low but the costs of not finding work are sometimes enormous. After buying the driver's licence some of the interviewees felt cheated given that they have stayed for several months to a couple of years without ever finding jobs. An example here is the case of Chikho, cousin to Dziko and also close friend to Mbalame. Chikho bought the driver's licence in 2007 after selling land at the price of K255, 000.00. Just like Dziko, Chikho spent a good portion of the money on beer. Actually he eloped with a woman he described to me as a prostitute. It is now three years since he obtained the driver's licence, but he has not been able to secure work. Whenever he has chance to test drive, he is

jittery, and he claims that he has failed job interviews on a number of occasions. But, he and his close friends also claim that when he is asked to drive one of the cars in the village, that is, when there is a funeral and has been asked to drive by the bereaved family, he drives quite well. Chikho's apparent failure to drive when he goes for job interviews is then associated with being bewitched, not the lack of competence. Like many others in his situation, Chikho claims that he does not expect to be employed at any big company in the city because he does not have academic qualifications such as the Junior Certificate of Education (JCE) and the Malawi School certificate of Education (MSCE) require for such jobs.

That Chikho has not been able to secure work does not bother or discourage other young men from seeking and striving to buy a driver's licence. What makes many young men pursue buying the driver's licence is that the purchased driver's licence is as genuine as that one would acquire by following the right procedure. As Dziko put it, even the traffic police officers cannot suspect that it is bogus or fake. That is, the purchased driver's licences could be illegitimate but it is also genuine. On one occasion Dziko went driving with his friend who acquired the driving licence by buying. They met three traffic police officers, who asked for the driver's licence, but they could not tell that it might have been obtained unlawfully. The assurance that the purchased driver's licence is as genuine as any other obtained following the right procedure makes the young men in peri-urban villages less likely to consider attending driving lessons at driving schools or going for the driving tests. The catch phrase is the end justifies the means. They prefer learning driving right in their own villages. Some of those providing driving lessons are the people who have acquired land recently by buying and have since built houses and so live within the peri-urban villages. Developing good personal relationships with the new settlers is therefore an important factor in the process of acquiring the new symbol of success. Yet, such relationships are sometimes difficult.

One of the families 'gave away' a very big piece of land to one transporter in lieu of cash payment for driving lessons for five sons. All the five have since acquired the driver's licence and are now looking for jobs. It is not clear whether they obtained the driver's licence legitimately or illegitimately, and whether they are competent to drive as they claim to be or not. Mbalame has been waiting for many months while the person who is expected to assist him with the process of obtaining the driver's licence is

sorting out his own employment and family issues. Occasionally, whenever he has time to follow up on the progress of work on his new house, he gives Mbalame some 20 to 30 minute driving lessons. Mbalame claims to have enough money in a bank account that can cover fees for his driving lessons, and the fees for the learners' and the driver's licence, yet, he insists that he will obtain the driver's licence the illegitimate way.

Buying and Operating *Zomanga Tauni* (town builders)

Zomanga tauni (town builders) is a name used for old lorries that service the construction industry. Most often the lorries are very old models of Toyota, Ford, Hino, Thames, Bedford and Leyland trucks, and in many cases are not in roadworthy condition. Owners of such lorries are not bothered to process official documents, such as certificate of fitness (COF) and road permit required for the vehicles to use public roads. If they do the documents tend to illegitimate.¹⁶⁰ Yet, these lorries are an important aspect of urban and peri-urban development in the sense that they are the backbone of the construction work going on in peri-urban villages. It is often said that some of the lorries were bought using money realized from selling land, and related to it are a whole range of activities that are supported or mediated to some extent by the boom in this transport economy. The lorries are used to ferry rocks, bricks, quarry stone and river sand. I will dwell on the acquisition and operation of the lorries.

As strong as the obsession to buy the driver's licence is the obsession to buy the lorry. It is an obsession given that buying a lorry is often mentioned by many peri-urban villagers as the primary motive for wanting to and actually proceeding to sell land, especially in Chikowa, Mphwere, and Jekete villages. It is also an obsession given that some villagers have sold more than one parcel of land either to buy a second or third lorry or service an existing one that is experiencing operational problems. That selling land could be the means to invest, for example in the transport sector, has been highlighted in studies carried out in other parts of the world, for example Kaitilla (1999) for the Pacific. Also, Benediktsson (2002) underscores the need for cash income as the prime motive and often it is invested in more lucrative businesses that promote wider economic participation.

¹⁶⁰ Traffic police officers rarely impound such lorries, and it is believed that the lorry owners pay bribes. Occasionally the lorries are impounded to save face.

While interviewing one of the local estate agents named Fanuel a small one ton pick-up vehicle passed by. Then Fanuel said, “Look at that car, have you seen it? That blue car going over there! That car was bought using money realized from selling land.” Following that he went on to point that another ‘boy’ by the name of Kondwani bought a half ton pickup, while Salima sold land and bought a 7 ton lorry. Salima happens to be one of the local estate agents and also a nephew to one of the village headmen. Buying a lorry, from 3 ton or bigger is rated as more valuable than buying a small pick-up or saloon car. Buying a lorry is also a daring act given that the lorries are quite often bought in very remote areas or other districts.



Figure 8.1 *Zomanga Tauni* (Town builders) parked at a rank

Buying a lorry is considered and often times described as big investment. Also the owners of such lorries and their employees are in multiple ways essential actors in peri-urban land transactions. A lorry represents serious entry of the owner into the small scale transportation economy. The

transport sector happens to be one of the business avenues that are flourishing given that the peri-urban is also the hive of many construction activities. It is also in the peri-urban that many of the brick making fields are located. Artisan quarrying and sand mining referred to earlier on take place in the peri-urban. Therefore, owning a lorry, how old it may be, and regardless of how many days it might be on and off the road, it is often considered a significant achievement. Those who acquire lorries after selling land have something tangible to show off. The lorry is ever visible to eye, the sound of a running engine is audible and the smell of oozing diesel and smoke can be sensed as well. One of the lorry owners bragged that, “You can see it. You can hear it. You can smell it. And, you can ride it”. Above all, lorries that are in good running condition are a dependable source of income. The owners of reliable lorries and the people they engage to work with them as drivers and ‘lorry boys’, sometimes regardless of age, consider the lorries their *mgodi* (which literally means cash mine), and the lorry owner is a local version of the big boss. The lorry owner is a self-made daily cash man.¹⁶¹ Besides the fortnightly or monthly wage, whichever is appropriate and applicable to their terms of employment, lorry drivers seek other means of earning additional income. This may take two forms, either cheating the lorry owner or the bosses who hire the lorries.

In the first place cheating the lorry owner involves the driver hiring out the vehicle without prior knowledge of the owner. The driver collects and keeps the payment. This is however rare given that most of the owners of the lorries keep watchful eye on their vehicles, the drivers and the lorry boys. Where cheating the vehicle owner happens it takes place when the lorry owner has travelled to far off places. Sometimes the driver may fake a breakdown of the vehicle to disguise one or two extra trips above those trips approved by the owner. Most drivers for such lorries do not have the coveted driver’s licence. They learn to drive while on the job. Some start as lorry boys. Over time those who have talent or are gifted, good mannered, and through the good will of the driver or the big boss (owner of the lorry) they become drivers. Many lorry boys would wish to have a driver’s licence but often claim that they lack money.

¹⁶¹ The symbolic association of owning a vehicle with progress and personal achievement is also discussed in Benediktsson (2002) for Papua New Guinea. For Benediktsson, such association emanates from long association of ownership and operation of motor vehicles with expatriates.

The other way, which is quite common, drivers cheat the people who hire the lorries. This form of cheating involves conniving with the security guards or foremen at construction sites and with the suppliers of the bricks, sand and quarry stone. In one of the instances described in the previous chapter the security guard falsified supplies of bricks, sand and quarry stone. Another incident narrated by one lorry owner, who is also the chairman of the lorry operators at one of the trading centres¹⁶² relates to the under delivery of bricks. A regular client hired his lorry to transport 12,000 bricks. The lorry owner identified the bricks upon which he asked his driver to deliver the required quantity in four trips each with a load of 3000 bricks. For the four trips made the number of bricks delivered amounted to 10,000. The supplier was paid the full amount of K30, 000.00 for 12,000 bricks instead of K25, 000.00 for the delivered lot. The one who had hired the lorry to deliver the bricks was informed by unsuspecting lorry boy. When it was confirmed the owner of the lorry offered to deliver the remaining 2000 bricks valued at K5 000.00, ostensibly to protect his business and integrity. Then he fired the driver and it appears that the foreman too lost the contract.

Like the prices of peri-urban land the lorries are often bought at bargain prices and usually in places far away from the cities. One of the local estate agents reported during interview that one of his uncles is now a successful transporter. He acquired his first lorry after selling land and later on bought a second 7 ton lorry in Ntcheu, a district in central Malawi at the price of K250, 000.00. Much of the money used to buy the second lorry was from savings realized from operating the first lorry. The relatively low prices are justified on account that the first or second or third owners sell these lorries when they have problems maintaining them. In some cases the owners might have died some years back and their children or grandchildren or nephews sell the lorries because they have no use of such vehicles. Some old lorries are sold when relatives are in dispute over how to share the property following the death of the owner. Such disputes may also involve distant relatives, siblings and nephews (sister's sons) of the deceased and the widow and children of the deceased. One of the instances that typify this occurrence is one involving Lameck.

¹⁶² The person who initiates establishment of a lorry rank becomes its de facto chairman. Anyone joining the rank has to seek acceptance from existing members and abide by some code of conduct. This may include, but not always, uniform rates for hiring out the lorries.

Lameck is a young man aged about 30 years old. He and his brothers sold land a couple of years ago at the price of K750, 000.00. After sharing the money among their livings Lameck and his brothers pulled together their portions to buy a 7 ton lorry in Chikwawa, a district located to the south of Blantyre at the price of K350, 000.00. It was Lameck's brother who went to scout for the lorry. When he found one he asked Lameck to go with him to inspect and then buy it. As Lameck described it, it was a very old vehicle but it appeared strong. When they bought it, it had no hand break and tyres. It was then suspended on logs of wood. When Lameck and his brother inquired on the whereabouts of the tyres they were told that only four tyres were available, but they needed a total of six tyres. Lameck and his brother travelled back to Blantyre to buy two used tyres. After paying the price and fixing the wheels they drove it to Blantyre. Buying that lorry was a big gamble. It was a big gamble given that it experienced frequent breakdowns. To keep it on the road they started borrowing money from friends in order to buy spare parts. Borrowing did not help and soon they realized that it will not be possible to pay back. As Lameck also put it, "One day my brother asked me to choose between having the money lenders grab the lorry or sell it to pay back the lenders. After some careful consideration I agreed that we should sell it. After selling it we paid back the debts and then shared the balance." Despite the challenges associated with managing that old lorry, Lameck observed that if he were to have money he would buy another lorry. Apparently Lameck's view is that "With a lorry one cannot die of hunger". Dying of hunger is a metaphor for the 'hunger for cash'. As he observed, during the short period of time they had a lorry he could afford to buy food quite easily. Even his sisters benefitted in some ways. He could give them money for buying their needs. Now Lameck earns his living as a lorry boy.

Additional insights about lorries emerge from those who have never had opportunity to buy or operate one but have worked as 'lorry boys' for many years. One of them is Mbewe. Mbewe claimed that he has no appetite for buying a lorry. His account is from an operational point of view. It relates to the challenges of seeing other people fail in attempts to breakthrough as transporters. What is relevant about Mbewe's count is the connection that he provides between different income earning possibilities and investment options in the peri-urban Blantyre. Apparently Mbewe is also a brick maker, one of the activities closely tied with peri-urban land transactions and the lorries. Mbewe starts by suggesting that if he were to sell land, for example at

the price of K500, 000.00, he would build one or two houses that he could be renting out. From introspection he asks: “What is the benefit of buying a lorry when you have no proper house. Isn’t it funny to park the lorry next to a hut that looks more or less like a nest? It is better to build a better house that can last some 20 years.” Building a house for rent has advantages, as Mbewe recounted several times:

If I were to sell land at K500, 000.00 I would build two small houses. The size of each house would be about 4 m by 4 m (16 m²). I would be renting out the houses. Although building houses for rent would not bring quick returns, I would be assured of steady flow of income. Imagine receiving K5 000.00 as monthly rent on your two house(s), what can stop you from spending it all with your wife? However, income from operating a lorry is not like that. You spend while thinking about the possibility of a breakdown on the following day. Isn’t that servitude? With a lorry the money has to be paid out to many people involved in operating it. For a trip you receive K4, 000.00. Out of it you pay those doing *ganyu* and also buy fuel. If you have a balance of K2, 000.00, for example, it will be unwise to spend it all; otherwise you have to always worry about the lorry experiencing break down. Sometimes the lorry would break down and the spare part required to fix it would cost K20, 000.00.

Further, Mbewe tries to make and illustrate connections between buying lorries, operating them, and the boom in the construction of houses. The premise is that the boom in construction work provides good business to lorry owners. But he foresees a decline in this form of business once all the land around is sold out. As he also put it,

The lorry owners are making good business because of the proliferation in the business of selling land, and the rise in the number of people building houses. But soon all the land will be sold and few people will be building new houses. That will be followed by the downfall of the business of lorry operators. The downturn in lorry operator business is already evident in some other places. Some lorries stay for two weeks without being hired. Should that happen here, the best would be for the lorry owners to relocate to where the business of selling land would be in high steam.

There are concerns that lorry owners exploit the people they work with. Some lorry owners have even gained the reputation of being 'difficult' people to work with. In many cases the wage for loading and offloading bricks, sand and quarry stone is fixed at a certain rate, which is in many cases considered quite low. For example loading and offloading one trip of sand, bricks or quarry costs K600.00 per trip for the 7 ton lorries and K700.00 for the 8 ton lorries. Four and three ton lorries cost K400.00 per trip. In many cases the minimum number of 'lorry boys' is four. Many lorry boys complain about it being too low, but given the challenges of unemployment they are compelled to keep on working. Sometimes they also describe themselves as lucky given that many young men lack such opportunities. The challenge of low pay is however enormous for those people who do not have land and have to rely entirely on income as the lorry boy.

It is also said that lorry owners exploit the sand miners, brick makers and quarry makers. Where the lorry owners are contracted to supply building materials, and in many cases the cost includes transport and cost of materials, they often negotiate for the lowest prices for the material. The price of a heap of sand that would fill a 7 ton lorry is K1, 700.00 in the dry season and K1, 200.00 in the rainy season. Often, the lorry owners use their influence to push for lower prices of K1, 200 or even less. Where the sand miners resist supplying the sand at lower prices some lorry owners would threaten to ask other lorry owners to boycott collecting sand from such difficult sand miners. Similar practices apply to artisan quarry makers. In one transaction the artisan quarry makers agreed with some customer to supply soft or brown rocks at K3 500.00 per trip load. The lorry owner who was contracted to transport the stones had a different idea about the price of the rocks. He insisted that he would only collect the rocks if the price is reduced to K2, 800.00 per trip load. The lorry owner used his knowledge of the supply of rocks to renegotiate the price on behalf of the buyer, that way creating for himself the image of an honest broker.

Quite often lorry owners collect money from the buyers after delivery of the bricks, sand or quarry stones. Instead of paying the suppliers instantly, they hold the money for some time. Sometimes it would take even two weeks before they could remit the money to the suppliers. Then, many suppliers of sand, bricks and quarry are forced to follow up with the buyers. Often they would learn with dismay that the lorry owner collected the money on their behalf. The suspicion has always been that lorry owners use such money for

a while (*kutakatira*). One of the uses would be buying fuel for the lorries. Some lorry owners are sometimes not allowed to load sand and brick until payment is made upfront or the buyer is often asked not to pay through the lorry owner. On this account the brick makers, sand miners and artisan quarry makers are not always passive in their relations with the lorry owners. This aspect leads this discussion to socio-cultural issues and relations in peri-urban villages.

Socio-cultural implications of selling customary land

One village headman observed that when land was not scarce strangers could come to a village and ask for land or beg for a place to build a hut where they lived while working or trading elsewhere. This arrangement has been replaced by the notion of rent for temporary use and sale for permanent use. It would appear that the peri-urban villagers recognize that selling land leads to irreversible changes in the people-land relations. But, there is also some sort of confusion at the pace things are transforming. The peri-urban villages as spatial units are gradually transforming from rural into urbanized places. Urbanization entails social differentiation and modification in the way social relations, power and legitimacy are exercised and maintained. The dilemma is whether to call the place 'village' or 'town'. The drive to retain control over a close knit and almost homogeneous community is sometimes irreparably broken. Then the question becomes how to live with the changes or how to reconcile the past with the present.

Anthropologists have recognized the negative aspects of selling land in the societies they study. As Kaitilla (1995) writes, selling land leads to radical changes that affect in quite adverse ways the lives of rural people who have little or no experience of survival detached from the land. I will look into four aspects that are observable and are also subjects of discussion and sometimes intense reflection in everyday life, namely: *ganyu* as a socio-cultural phenomenon, alienation of land and everyday social relations, inevitability or pressure to relocate, and the sociopolitical position of village headmen. The core issue is to outline the meaning of alienation of land in everyday life, beyond survival or enrichment, to influence and meaning, which are also related to redefinition of sense of belonging. The peri-urban villagers are also eventually negotiating and challenging discourses that position them as rural dwellers in opposition to those buying up the land as urban dwellers. It is

along these lines that the intentionality and strategic action of the actors are negotiated and often manifested in various ways.

Ganyu as an Embedded Socio-cultural Phenomenon

Selling land means having to learn to live with less and sometimes without land. Where the buyers have bought land, for example small hills, hitherto open to different people, access by the peri-urban villagers is limited if not denied. Loss is literary manifest where the villagers cannot collect wood for fuel, grass for thatching and in some cases lose even the right of passage after brick wall fences have been constructed enclosing the land, as often alleged, for security reasons. For instance, in Jekete village one villager sold a hill. Young men who depended on the hill for self-employment as artisan quarry makers, literary known as ‘breaking rocks’ or *kuswa miyala* in the vernacular, could no longer do so. Before that transaction they could sell the granites or hard metamorphic rocks for laying foundation of buildings or landscaping, and the soft brown rocks for septic tank soak ways.

Peri-urban land transactions are eventually transforming smallholder farmers into landless *ganyu* seekers. *Ganyu* becomes the last straw for many peri-urban men after they have disposed of the land, though some young people like Evance, Milward, Chinangwa, Mbalame and Mbewe often talk about *ganyu* with a sense of optimism. Often, they highlighted how easy it is in the current set up to find piecework in comparison to the past few years. *Ganyu* offers a window for understanding how the peri-urban villagers attempt to make sense and also adapt to changing configuration of livelihood options. As Chinagwa put it, “One evening I was at the trading centre. A boss stopped to pick me to help him offload cement. That day I was with my wife. A friend who stood nearby asked to come along with me, but I pushed him aside. I decided that I would do it alone. That day we had no paraffin and salt at home. When I returned home I said to my wife, God has answered our prayer.” Then Chinangwa described how difficult it would be for him to live in the village of his wife, which is far from the city, and where *ganyu* opportunities are limited to farm work. Here my interest is not income, but the social relations that are implicated.

Evance too earns his living by doing *ganyu*. Doing *ganyu* is important to both Chinangwa and Evance as married persons who are expected to provide for their wives and children. As Evance put it, “Since I am married I have to

do some work. Otherwise I will be stealing. I do all types of *ganyu*. What will I feed my wife if I do not do *ganyu*”. Both Evance’s family and the family of his wife sold almost all the land they had, and they have nothing tangible to show for it. There is no land on which to build new houses. As such Evance with his wife live in a rented house and earn their living by doing *ganyu*. Another case is that of Milward, a young man in the early 30s. Milward is married and has two children. Milward and his wife do not have a garden of their own, though Milward’s father has one. Milward, like other young men in peri-urban villagers claim that they do not regret the state of being landless given that they do not need a garden to survive, a situation that they sometimes refer to as *munda uli mthumba* (‘the garden is in the pocket’), a metaphor for the capacity to earn some money through some *ganyu*.

These dynamics relate in part to what Briggs and Mwamfupe (1999) observed as challenges of economic liberalization. In their view, as already cited in the first chapter, many rural farmers in peri-urban zones in Africa have had to make hard decisions, which include selling land, a trend few would have been prepared to contemplate some decades earlier. Experiences in peri-urban Blantyre show that there are many factors other than the invisible hand of the Bretton Woods institutions or the western inspired economic liberalizations. For young men like Milward, the government programme of subsidized fertilizer does not feature directly in their livelihood strategy. This is probably the reason Milward speaks about the government fertilizer subsidy programmes as *za makolo* (suitable for old people). For some young men, if they happen to access the coupons for the subsidized fertilizer, what they would normally do is to look for someone who could buy it. *Ganyu* as the main means of earning a living in the peri-urban villages defines their selfhood and material conditions. The wages from *ganyu* are sometimes unreasonably low relative to the rising cost of living. The effects are sometimes expressed in terms that suggest loss of sense of belonging. As Mbalame once told me, the place he knew very well as a village is becoming unrecognizable and a strange place. Needs are becoming wants as things one could expect to obtain for free are no longer free. Examples include people living in rented houses and having to pay for water, even for ground water from the boreholes.¹⁶³

¹⁶³ Every borehole in the peri-urban villages has a management committee, which is responsible for the maintenance, but also the collection of user fees. The fee varies from one borehole to another and also between villages. In one village the user fee is K50.00 per

In another sense *ganyu* is more than just work. It is also a metaphor and a structural phenomenon. After obtaining or buying the driver's license some young men stay without work. For instance, when Chikho sold land a couple of years ago he declared that he would never do any form of *ganyu* involving tilling other people's gardens or moulding bricks. Since acquiring the driver's licence, now over three years ago, he has not been able to secure employment. He lives on *ganyu* just like anyone else in his situation, including doing the forms of *ganyu* he despised before. On a number of occasions some of his friends, for instance Mbalame, could mock him that he is being punished for having cursed his ancestors. Chikho has to do *ganyu* given that having sold away the land his survival depends on being able to find and perform some piece work. This may even entail doing *ganyu* on the land one might have sold away and probably used the proceeds (the money) to pay for the driving lessons or simply buy the driver's licence. When doing *ganyu* in such a situation the feeling is no longer that "I am working on my garden" but doing *ganyu* on the boss's land. In this sense *ganyu* is a manifestation of emerging relations between the landed and the landless. It is also like the last straw, especially for those without any land. As Janine Ubink suggests, the sale of land automatically implies the loss of farmland for a local farmer, which often severely affects the person's livelihood. Such effects are difficult to cope with or turn around even if the sale of land provides good start-up capital for a new livelihood (Ubink (2008:279).

Those who have some land have some flexibility. They can combine *ganyu* and some form of subsistence production of food. As Chinagwa observed, "Some people do rent land, but it is never enough. I am better off since I have land which I cultivate and I eat my own home grown food, while also pursuing *ganyu*. I am better off compared to those who just live on *ganyu*."

month for each user family. Within the premises of one school there are two boreholes. One of the boreholes is managed by a committee comprised of teachers working at the school and the other by a committee of villagers. The user fee for both boreholes is K100.00 per month. The wife of one of my key participants, who lives about 250 meters from the two adjacent boreholes, does not draw water from either of the two because she finds the fee unreasonably too high. Instead, she collects water from a borehole located in the neighbouring village about 800 meters away, and where the user fee is K50.00 per month. In some cases private boreholes have been sunk and the price of water is fixed per bucket. A 20 litre bucket of water may cost K5.00. Houses that have running water complement piped water with water from boreholes because of the intermittent supply of water. Connecting to the water grid is a nightmare given the high connection fees, and also inefficiencies which lead to delays in connecting those who have paid.

If they can't find *ganyu* they are destitute.” During the rainy season Chinangwa spends some of the time with his wife tending to their maize field, while also doing *ganyu* or mining sand some of the time. In the 2008/2009 growing season Chinangwa and his wife harvested some 15 bags of maize. In the 2009/2010 they got a slightly less yield due to the dry spell that occurred at the critical time in the farming calendar. Chinangwa speaks about being better off in terms that he eats his own food, unlike those who rely on buying food all the time.

Although many people accept *ganyu* as central to their livelihood, access to land and paid employment or profitable trade are considered significant for any meaningful long term wellbeing. For this reason some villagers who have some land are sometimes resisting the temptation to sell all their landholding. The intention is that in the future they can live better and dignified life just like *mabwana*. As one of the participants observed, “I cannot sell all of my land. What I can is do *ganyu*. It is my wish that in the future I will be able to live in comfort on my own land. Then I will be able to raise my pigs, goats, chickens and also grow some vegetables.” The wish to raise pigs or grow vegetables correlates to the expressed interests of many land buyers as described earlier in chapter 4. That is, the wish is to allocate extra, vacant or open spaces to the cultivation of vegetables or for raising pigs and chickens for home consumption or for sale, as much as some devote the acquired land entirely to arable farming. For the peri-urban villagers, there is also a view that success depends on good luck (*mwayi*) and stable family relations, which are also considered quite elusive and eventually leading to re-ordering of social relations in quite remarkable ways.

Re-ordering of Social Relations

A week would not pass without tales of domestic abuse and ‘unwise’ expenditure, which are also connected to concerns about excessive drinking of beer, marital unfaithfulness and other forms of troubled social relations. As most of the social relations are connected to money, so it is argued that these concerns relate to the commodification of land.

Drunkenness is not a recent phenomenon, but it is now considered a cause of social concern in relation to land money. Many young men would sell land and spend a big portion of the money on beer, sex or both as alluded to earlier on. The beer consumed in the peri-urban villages is home

brewed or traditional beer (*ntonjani*) and spirit (*kachasu*) or Chibuku (opaque) and bottled beer manufactured at breweries in Blantyre city or beer imported from the neighbouring countries. Home brewed or traditional beer is sold right in the villages at the homes of the brewers, while bottled beer is often sold at the pubs, bottle stores and lodges, most of which are owned by strangers. At stake is not just the land money, but also money earned from other sources, for example *ganyu*, selling bricks, sand and quarry stone, all of which is in a broader sense land money. Home brewed beer provides needed cash to those who brew it, but heavy monetary expenditure on beer by those who consume it diverts cash that could be spent on foodstuffs, medicine, school fees, school books and school uniforms, just to mention some of the important expenditures. Some wives suffer abuse from husbands returning from sessions of binge drinking after selling some land or doing some *ganyu*.

On the other hand problematic marital relations is again not a new phenomenon, though there is also a perception that of late there have been increases in the trend of both men and women juggling lovers. Such relationships are sometimes leading to collapse of marriages, most of which are unjustifiably blamed on women for the love money. Often a connection is implied between land transactions (land money to be precise) and the spread of AIDS. When discussing such matters the villagers often refer to the trend as 'these are difficult times' (*masiku ano ndinovuta*). Coincidentally, land transactions are also perceived as problematic and prone to disputes as explored in the previous chapters. The paradox is that on the surface there are attempts to glorify ideals of fidelity and mutual faithfulness, but in practice many people condone promiscuity, especially for the men and for whom it is sometimes perceived as a symbol of manhood. For women promiscuity is not tolerated, and the name *bule* (promiscuous person) is often reserved for women as a sign of disapproval. Although extramarital affairs are disapproved, such affairs are quite often expected, and the contradiction explains tensions within marital relations. As James Ferguson also suggests, the marital relationships are characterized less by trust, affection, and cooperation and more by hostility, suspicion, and sometimes mutual antagonism (Ferguson 1999:180). Land money complicates the already troubled situation.

Once a married man has sold land chances are high that he will disappear from home for some days. As some accounts suggests, selling land is actually

an act of risking lives and the livelihood of families.¹⁶⁴ Concerns that land money is fuelling a beer drinking culture are often expressed by both the young and old. At the beginning of my fieldwork one of the village headmen observed that young men from a neighbouring village display disruptive behaviour when they are drunk. Later on, this village headman went to meet the village headman of the neighbouring village to plead with him to control the behaviour of his subjects. As he put it: “I went to meet their village headman, and I have told him that I will stop his subjects from drinking beer in my village should they continue making noise when going back to their village late in the night.” Also, some young men, for example Chakwana, spend days and nights in bars until all the land money is consumed. Chakwana sold land at the beginning of 2009 at K280, 000.00. Then he left for Lunzu trading centre carrying some K100, 000.00 for a beer drinking spree. He informed his friends that he would be on holiday. For that whole week he stayed away from the village. After spending this lot he went back home where he asked his mother to give him K80, 000.00. Then he left again for Lunzu where he blew it up as well. Being the oldest male member of his immediate family, he pushed everybody into submission. Chakwana is known for violent conduct and it is alleged that his mother gave in for fear that he would smash the door into her house in order to collect the money himself. This experience is used by some peri-urban villagers to suggest that eventually land money is leading to intergeneration conflicts.

Many young men from the peri-urban villages claim that when they want to marry they often marry women from far off areas or districts, then bring the wife to live with them virilocally. They draw on the customary analogy that one does not buy a hen for stocking purposes from the marketplace. Such affinal women do not have a strong foothold on land in the village of residence for reasons explained in chapter 5. Chitsenga, who introduced me to this phenomenon, married a woman from Chiradzulu district and quite often he drew my attention to what he described as the big challenge of marriages between men and women from within the peri-urban villages under study— that such marriages are not real marriages and few do last. In contrast, Njewa, who is married to woman from a neighbouring village, wondered how I came to know about this phenomenon by observing that:

¹⁶⁴ Cash crop producer, for example tobacco farming, men and women may work together to grow the tobacco, but after selling it the man takes control and often spend the money on luxury consumer goods, alcohol and other women.

“So you know something about this! The advantage is that we grew up here and so we know which families to go to when we want to marry.” As he put it, the area is known as Chileka (in Chichewa language the root *leka* means leave) because for many years the area has been characterized by unstable marital relationships. Couples separate for flimsy excuses, but one of the frequent causes in recent times is unfaithfulness fuelled in some cases by the land money. Many peri-urban villagers argue that recently there is a thin line between being faithful and being promiscuous. As one village headman also suggested, while addressing a tenant renting one house in the village, “Here we have many women who are married, but who behave as if they are not married. Ask your land lady should you require information about any woman you desire. Otherwise you will be in trouble. Here the fine for committing adultery is a goat.”

Many small scale businesses ran by men are often described as less vibrant because profits and sometimes the capital is spent on pastimes (*kudya mpamba*). As one of the participants also observed, “If you were to go to the trading centres in the evening you would be surprised to note how people behave. I bet you will not believe what you will see. Promiscuity!” The connection is that land transactions are the source of money. As pointed out earlier, analogy is often made with TEBA money and in relation to various beliefs that fall within the ambit of custom.

One of the situations encountered relate to the family that has been living close to one trading centre for more than 10 years. This family runs two businesses at one of the trading centres. Midway my fieldwork this family became locked in marital disputes and the alleged cause was the infidelity of the wife who left the matrimonial home to live with her relatives. Separations like this one lead to a lot of gossip, accusations, and bitterness, and usually involve many more individuals than just the spouses (cf. Lewis 1963:78). When the couple reconciled rumour suggested that the wife had used charms provided by her uncle who is a powerful herbalist to win back her husband’s love. As Oscar Lewis also observed in the role of conflict among husbands and wives in Mexican village, when a woman is seen to dominate her husband and to have many lovers she is suspected of having given her husband love medicine (Lewis 1949:607 – 8). There is a belief that a man in this state is unaware of his condition and can do nothing about it because the magic makes him stupid or foolish, and easily led. Yet, others observed that since this was not an ordinary family, there is no way it could end in divorce

as many local and poor families would. Usually such explanations start and end with land.

Later on a local couple that had lived together uxorilocally for many years and has eight children got involved in similar marital dispute. The woman had sexual liaison with another man, who was in the past a close friend to her husband. At the height of the affair the husband was sleeping in the kitchen while his wife with the other man slept in the main house. The husband decided to demolish the main house, built of green bricks and roofed with corrugated iron sheets, ostensibly to force the other man build her a new and better house. The husband was arrested by the police for malicious damage, but the brother to the woman compelled her to ask the police to release him without charges. When he was released they reconciled. The husband was rebuilding the house by the time I left the field. This incident was uniquely unrelated to land, but many other similar liaisons are directly connected either to land transactions or the building of new houses.¹⁶⁵

Some incidents of this nature would involve domestic violence. One of the incidents encountered involved a young man named here Mpanda. I met Mpanda while he was doing *ganyu* excavating a trench for the septic tank at one of the newly built houses. I arranged with him to meet some two days later for an interview, but the interview failed. He left the area as a fugitive after beating and wounding his estranged wife. His intention was to disfigure her so that other men would not desire her. Mpanda and his wife come from two neighbouring villages, and it appeared that their marriage was characterized by mistrust. The incident was however connected to heavy drinking and abuse of marijuana. Apparently, marijuana is considered performance enhancing substance among many young men involved in heavy work like excavating trenches and artisan quarrying. Also, consumption of marijuana is often mentioned as one of the contributing factors to the incidence of young men claiming land now used by strangers. While Mpanda left to escape arrest by the police, many peri-urban villagers are also relocating to other places due to growing social disorientation. It is to this aspect that I turn to.

¹⁶⁵ One of them involved a woman who is a known prostitute. She had a love affair with a 'rich' white man working with one of the major international construction companies. The lover bought land for her and started building her a very big house. Before the house reach the roofing level, the relationship collapsed when she was found having sex with another man. The building project stopped and she has since sold off the land.

Pressure to Relocate and Intergenerational Relations

Selling and buying customary land is a paradox. It is impacted by the economic, cultural and sometimes political issues, a triangulation that draws on three kinds of human ambitions of power, wealth, and meaning (cf. Shipton and Goheen 1992:307). In this section I will dwell on the economic and socio-cultural issues only, while the political aspects (socio-political position of village headmen) will be dealt with in the next section.

One of the first transactions encountered involved land previously used on rent by a distant aunt to the seller. Instead of bemoaning the loss of use, given that loss of cultivation rights could reduce her capacity to produce her own food, the aunt to the seller welcomed the transaction noting that *mwina kwathu kumonso nkubwera chitukuko* (probably development (*chitukuko*) will also spread to my section of the village). Those buying land are perceived as bringing development, a perception that is often expressed by the village headmen. The land sellers would thus jokingly refer to selling land as giving it way to those who are capable of bringing and sometimes doing *chitukuko* with it. The unequal social relations that are eventually implicated are evident from the commencement of a particular land transaction. Yet, that selling land is recipe for social pressures like relocation and intergeneration conflicts among the land sellers is quite often underplayed.

Many big and ‘urban style’ houses are being built (figure 8.3). The contrast with the surrounding houses is astounding if not bewildering. In some cases all the neighbouring houses are small windowless huts made of mud brick, mud floors and grass thatch. During the rainy season most of these huts leak heavily and some could be described as structurally unfit for habitation. Socio-economic inequality in the peri-urban villages is becoming glaring as the new comers are seeking to curve out low density status. The pace at which people from the city are building high class urban style houses is on the other hand inspiring. As one woman who acquired land lately observed, “When I saw those big houses I exclaimed, oh my God! Do we have such big houses here? All along I had thought that probably my house is going to be the only big house around. This place is really developing fast. Now I understand why many of my friends claim that this place is an emerging upper class location.” For some time her concern was that villagers were raising the prices of land at alarming levels, but now she considers the higher prices of land as something positive. It means that with high land

prices it will be more tempting for the villagers to sell more land, but the high prices will in turn be prohibitive for the low income earners wishing to buy land. In her own words, “As the prices of land are rising only those people who earn a lot of money will be able to buy land. That way there will be few or no incidents whereby one has built a big house, and then another person comes and builds a small one close by.” It is anticipated that over time poorer villagers would be moving out.

Then, the buyers will continue accumulating land by acquiring more parcels. Already some of the buyers have opened businesses, and through the business celebrate their success or achievements, for example, having lived, studied, worked and travelled abroad. One example is the business premise known as Paris Leisure Centre with the iconic Eiffel Tower as its emblem. The owner claims that the name PARIS reminds him of the good old days in France. As he put it:

It all started during my days in college in the early 1990s. So, I just remember that name, Paris! Where I saw life! By the way France is the first foreign country I visited. Ah! Ah! As I said, as a student I went there, and after I graduated, I went there as a secondary school teacher on a six month training programme in the mid-1990s. When I started working with the radio station, I went there for a nine month training course. I consider Paris my second home. The name Paris Leisure Centre brings to mind all the things that happened in Paris. Everything! You talk of beer, drama, entertainment, a lot of things. Especially 1998, the French football team had just won the World Cup. It was very, very interesting to be in France at that time, 1998.

Like building better houses as some land sellers do, building ‘Paris’ is like enacting and bringing home the world out there. For other buyers their small and likewise big dreams include building big houses, lodges and restaurants, establishing maize mills, welding shops, mini poultry and dairy farms, mini factories, private schools, new church buildings and congregations, and many more. The practice of selling land makes these dreams come true. It is also in the bars and lodges where some land sellers meet or link with prospective buyers but also where they would normally converge to ‘eat’ the land money.



Figure 8.2 Paris Leisure Centre

As more land is sold the peri-urban villagers are eventually faced with the dilemma of whether to continue living in the peri-urban villages or to relocate elsewhere. According to my informants, it appears that displacement is inevitable. Writing about the urban poor in squatter settlements in Cebu (Philippines) Thirkell (1996) suggests that the tenuous existence of the poor enables middle-income buyers to exploit them. The buyers acquire land at relatively low prices and eventually displace poorer residents. The buyers may also resell the land for speculative prices, making the re-purchase of the land by the poorer residents impossible. From my fieldwork, in Chikowa village one family sold some land. The seller used the money to buy a bigger piece of land in Mbanga village from another family at bargain price, which was selling the land ostensibly to raise money for tuition fees for an orphan female child. After a few weeks other members of the buyer's family in

Chikowa village complained that they want the money back for other needs, and so the land acquired in Mbanga village was sold for the second time to one of the Pentecostal churches. Several religious groups have acquired land in similar manner and eventually built churches. A point to be emphasized is that these transactions are attractive source of income. Also, regardless of the price levels, selling land places family members in very difficult circumstances.¹⁶⁶ As Susan Diduk argues this aspect reflects the vicissitudes of a system where individuals and not larger social groups dispose of land (Diduk 1992). The trend is that few peri-urban villagers sell some of their land in order to purchase additional land in more preferred location (cf. Haugerud 1989: 79 for the same idea). Re-purchase of land remains a wish of many,¹⁶⁷ and the few that buy land do so in villages further away from the city, leading in some instances to permanent relocation.

¹⁶⁶ Angelique Haugerud has argued that “the market value of agricultural land exceeds its agricultural value and places its purchase beyond the reach of most small farmers” (Haugerud 1989:78).

¹⁶⁷ For Cameroon Susan Diduk observed that: “In 1990s several of my closest friends who had sold land in the early 1980s expressed distress over these sales because they are now in need of farm land to feed larger families and lack the money to purchase new and considerably more expensive land. Land sales were ultimately transacted to meet short term and often pressing economic obligations. That the poor farmers had less land than other farmers to begin with, and lacked the money to purchase new land once their birth right was sold, threatened and continues to threaten their survival. This is a growing concern as the cash value of land increases annually” (Diduk 1992: 206).



Figure 8.3 Very rich neighbour, very poor neighbour scenario: Fenced house. In view are small ‘better’ houses and grass thatched huts.

The actual dynamics of relocation are varied. People who have no proper jobs feel uneasy to live among or surrounded by the new wave of ‘strangers’ who are buying land and settling in the peri-urban villages. In principle relocation comes as a consequence of loss of sense of belonging. Often, relocation is the last option, and where it occurs it follows the last land transaction. Relocation means selling the family home or the land where the family’s hut or house, the kitchen, pit latrine (toilet) and bathroom are, and taking leave of the neighbours, both old and new. This is the ultimate decision that even the clever original settlers have to negotiate. It is also expressed by local estate agents who are equally affected. As Chitseko observed, “Many villagers who are wise sale part of their land that they use as gardens, they make or buy bricks, buy corrugated iron sheets, cement and then build themselves better houses. Some go further to apply for electricity. Then they live happily thereafter”. The assumption is that those who build better houses do not live to regret or feel pressured to move out, while those

who do not begin to feel out of place. The actual dynamics are not straightforward. I will illustrate this aspect by drawing on the experiences of Gwembe, another local estate agent, among others. Gwembe claims that he lives in a fenced house, though he himself has not built one for his house. Also, he complained that his neighbours are indirectly putting pressure on him. As he put it:

My family had a lot of land. My family alone sold land to more than ten people who have since built houses. My house as you would see is surrounded by the houses of the people who acquired land from my family. Now I have to rent land if ever I am to grow food. Can you understand that? We had a lot of land, but most of it was sold away. I blame my grandfather who is now dead. I have the feeling that because of his old age he knew that he might die and thought that there was no need for him to pass on the land. I always have this feeling that he destroyed our future. We have no land of our own to cultivate, we have to rent land. ...My grandparents gave birth to ten children. Three of them died sometime back. Each one of the seven surviving children has his or her own small piece of land. My grandmother is still alive. She has her own garden. The challenge is that for those of us who would want to grow some food we need to rent land. ...Very few people in Chikowa have sufficient land; we rent land in other villages. My own mother and father relocated to Phalula. I live with my wife on the land left by my mother. By our custom, my wife and children cannot inherit the land. I know that soon or later I might have to sell this land. I have already bought land in another village where my wife and children can live freely.

Gwembe's grandfather and grandmother were both born in Chikowa village, and so the land that Gwembe's grandfather sold out belonged to his lineage over which Gwembe could not have the same rights as if it belonged to his grandmother's lineage. Nevertheless, this account like those provided earlier on, suggests that the selling of land implies less land and little or no opportunity to make a living from land. It also implies the abrupt break with a cycle of land inheritance, that is, the governing principle that successive generations should receive land from the previous and pass it to the next. Also, selling the last parcel of land implies the final decision to relocate, and it appears that quite soon Gwembe will be relocating.

That Gwembe attributes his dilemma to the actions of his grandfather suggests that commodification of customary land creates and sometimes manifests intergenerational conflict. For this reason it is sometimes considered immoral, and if it occurs, a sign or the beginning of disorder' in the family concerned. As Hebo (2007) also writes for Oromo (Ethiopia), the land seller is perceived as an extravagant and lazy person without a vision for the descendants' future, and sometimes lacking respect for ancestors. For Jomo Kenyatta, only a bad man could sell land without taking into account the needs of his own descendants (Kenyatta 1971: 31). As for peri-urban Blantyre, I will add depth by drawing on the stories and gossips about two old men, namely: Anganga and Njomba.

The story of Anganga

Anganga is an old man. He walks with difficult with the aid of two crude walking sticks. In 2009 he sold land at K250, 000.00. The buyer paid the deposit of K100, 000.00, and pledged to pay the balance within two months. But, the buyer failed to pay the balance on time, and so he asked Anganga to sell it to another person. Anganga approached Kachala to help resell it. Kachala took me to see the land, a stone throw away from Anganga's hut. On our way back Anganga stopped us. Kachala whispered to me that Anganga is the owner of the land and possibly he wanted to 'beg' for some money. Before Anganga said any word, Kachala gave him (Anganga) a K200.00 banknote, then said '*mutume mwana akakugulireni sugar*' (send a child to buy you sugar). Kachala said nothing about prospective buyers, but as we went off he confided in me that "The old man is desperate for money. He is sick and would die soon. He wants to sell the land quickly so that he can 'eat' the money before his death". When I met with Kachala some days later, he added: "The old man we met on the previous occasion came and stood on the opposite side of the road. Then he sent a small child to find out when he should expect to have the money. He may not even finish the money; he is a walking corpse (*akuyenda okufajira*)."

The story of Njomba

Njomba is also advanced in years. He suggested that after selling his land he will build himself a new house, to replace the one whose roof was blown off, though he would also want to use the money to buy food, among other needs. Njomba claimed that he is a retired bricklayer. He worked with both

the colonial and the post-colonial governments and got retired twice. He claims that on both occasions he received gratuity. On his second retirement, Njomba built a house in his matrilineal village, bought some cattle, goats and ducks. None of these stocks exist. Njomba talks with pride about his prowess at fathering children. He sired a total of 27 children, though four have since died leaving him with 23. He sired the first six children with his first wife who is now dead. Then 15 children with his second wife (who delivered twins six times and on the seventh delivery she gave birth to triplets). He fathered six (6) more children out of wedlock. With all these children and several other relatives Njomba is referred to as having no kin. Having no kin is a metaphor which implies the state of neglect by children and relatives. To be without kin is an anomaly in peri-urban villages where relations are defined by kinship. His second wife 'deserted' him (return to her matrilineal village) together with her children. Some sons by his second wife are troublesome. Earlier, they sold one of Njomba's two bicycles, some cattle, goats and chickens without his consent. Now, Njomba lives almost alone in a shelter meant to be a kitchen.

It is common to underplay the fact that the elderly too have their own needs, and often it is social and economic pressures that would compel them to sell land. Their desperation is heightened by the lack of social welfare support and also the dearth of family based support system. In the past, the aging would receive material and moral support from their children and grandchildren. Listening to the elderly it is inconceivable to expect them to live by the cardinal principal portrayed by scholars that land belongs to the dead, the living and the unborn (cf. Kenyatta 1971:311 among many others), when those expecting to receive are not able to demonstrate worthiness by giving care to aged parents or grandparents. However, Njomba's wish to sell the land suggests that a person without children or with children who might not inherit the land and who is lacking basic support, might have less interest in retaining land for posterity. Also, having a big family or many children is not sufficient form of old age insurance as it has often been assumed to be. The HIV/AIDS scourge has simply complicated the situation in a myriad ways.

On the other hand, Njomba's story resonate the aspiration of some younger people, that is, to use the land money to build better houses as recounted earlier on. Sometimes after buying corrugated iron sheets for the

roof, and building the better house, many villagers realize that they cannot compete with *mabwana* at the same level. In effect the very rich neighbour, very poor neighbour scenario does not augur well. As Njewa commented on this aspect: "Let us say your house is like that one over there. Then around it are big houses like this one. With that small house, though the roof is not of grass thatch, as your house in the middle, what would you do? Even if the grass thatch has been replaced with corrugated iron sheets, would it make a difference? I would simply ask one of the *mabwana* to buy up my land." As another person also observed, "What normally happens is funny. When you get out of your small house where would you dispose your litter? What about water drains? Rain water flowing out of the brick wall fenced houses will create gullies on your yard. Sometimes you are caught in between two or three inconsiderate bosses. The one on the left side will create a water outlet onto your yard, and in no time the other on the right will do the same. That is just the beginning of the troubles." The ultimate decision is to relocate.

These experiences are similar to the experiences of Sakai people of Indonesia studied by Nathan Porath (2000). Like the peri-urban villagers in Blantyre, the Sakai families have been selling land to people of Batak ethnic group from Sumatra and often they have been using the land money to buy items associated with being modern such as motorbikes, chainsaws, sofa sets, wall units, and sometime to build corrugated tin-roofed houses. However, Batak immigrants, who invest their money in land, young palm-oil plants and the opening of commodity shops, often ridicule the Sakai consumption of modern goods. They consider the Sakai as a *bodoh* (stupid, backward) and lazy people who sell their land to purchase commodities. The Sakai benefit from selling land by acquiring various items and commodities using the land money, but they also endure ethnic pressures, stigmatization, and eventually forced relocation.¹⁶⁸

¹⁶⁸ The principle is similar, though processes are slightly different. Nathan Porath suggests that Sakai are helpless. As he writes, "Based on experience, they have a general model of how the immigrants from North Sumatra take over their land. First, an incoming Bataka befriends them so successfully that they adopt him as a sibling. He then purchases a stretch of land and invites some of his family to come over. Later he begins to expand by purchasing more land. Finally, the immigrant, thinking that Sakai are too stupid to notice, starts working unused Sakai land adjacent to his plot. The Sakai owner tries to claim it back. However, the Bataka, supported by his kin and others of his ethnic group, turns around and claims that the land did not belong to anybody and that he has legitimately claimed it. Not wanting a confrontation, the Sakai shy away and the land becomes Bataka land. Rising

Ethnic pressures and stigmatization are not issues of serious concern in peri-urban land transactions in Blantyre. Yet, relocation is not trouble free given that land is not solely an economic asset, but also a space that is lived and perceived differently (cf. Gregory and Altman 1989). The importance of the system of land tenure in the maintenance of corporate groups has long been recognized in anthropology (Abramson 2000; Evers 1975; Kenyatta 1971; Kaitilla 1995, 1999; Ubink 2008). To be precise the challenge is that latent disagreements among members of a family are activated when selling off land to relocate. Splits are common as Gwembe's situation suggests. His own parents live at Phalula in Balaka district, his grandmother and some aunts live in Chikowa village, but in different sections of the village.

As a local estate agent, Gwembe's situation could be similar to that of Salima. A few years ago Salima sold his family's land and bought a lorry. After operating it for a while he sold it because he could not manage to maintain it in good running condition. As one foreman at one construction site also described Salima: "I have known Salima for a long time. I used to meet him a lot in the past at my work (construction) sites. He used to come to inquire for contracts to supply river sand or bricks. At that time he claimed to have a lorry. He was already *dobadoba*." Having sold the land to buy the lorry, and later having sold it, Salima earns his living from playing local estate agent. Although he complains about the lack of steady supply of cash, he has an advantage as a nephew to one of the village headmen. As mentioned in chapter 5, he accompanies the village headman to witness and sign sale agreements for land in his village since his uncle is illiterate. In that sense Salima might not be as disadvantaged as the other local estate agents. Without this privileged position, which comes with access to signing fees, Salima suggested that he would be in difficult situation. Yet, in the long run the selling and buying of land makes his sociopolitical position as heir apparent to the village headman likewise tenuous.

tension then lead other Sakai families to sell their land, take the money and move elsewhere" (Porath 2000: 181).

Sociopolitical position of village headmen

Over time land is transferred to new comers or strangers with limited or no connections to the peri-urban villages' social and political institutions. Some of them are even averse to local traditional practices such as masked *gule wamkulu* (big dance) dancers and others (cf. Evers 1975 for the Pacific). Yet the village headmen claim that the selling of land represents progress. Changing ways of owning land and its transfer are visibly changing land use and socioeconomic structures, but changes in traditional political structures are at the moment less evident, debated or appreciated (cf. Ward and Kingdon 1995 for the South Pacific). As the village headman Mwera put it succinctly, "No! We do not complain. We know that the people buying land and settling here are bringing development. We know we do not have money to develop the area, so it is better to let others who have the means to do so join us."

Development is defined as the building of big houses and sometimes in terms of participation of the new comers in village activities like building clinics,¹⁶⁹ in kind contribution to water projects (sinking boreholes to tap underground water for domestic use) (figure 8.4), participation or attendance at funerals, and sometimes provision of material support towards the caring of orphans. In one of the peri-urban villages there is a community based orphan care centre and an under-five clinic. For the village headmen peri-urban land transactions are perceived as the platform on which to advance self-interests as described earlier in chapter 5, while also promoting 'development' by mobilizing resources from the moneyed new comers and strangers for the collective wellbeing of the local villagers. But, unlike the localized strangers who acquired land by begging, the moneyed new comers do not like or want to be ordinary villagers. As Mende put it,

Here, in terms of village activities, when there are funerals we do attend, when there are development activities we do assist or contribute something. And in fact when it comes to contributions, it is we *obwera* who make substantial contributions. We assist a lot even in the caring of orphans. So we try as much as possible to blend the town life and the

¹⁶⁹ Two months after completing my fieldwork one of the village headmen invited the people who have bought land in his village (both those already living there or building houses) to discuss how they could contribute towards the construction of a village clinic.

village life. We try to adapt ourselves. But you know, little by little this place is becoming urbanized and the local people are eventually moving out. As I told you, here, this plot, there were some families, but they moved to their land somewhere away. Very shortly the people living in those houses will be moving out.

The moneyed new comers and strangers are urbanites in many respects, though not all, they effectively straddle town and country (cf. Werbner 2004). They perceive and position themselves as invaders and soon they will be displacing the local villagers. As described in the previous section, the suggestion that local villagers are relocating is instructive of what is happening, what many villagers contemplate doing, and what the new comers wished it happened soon.



Figure 8.4 A water borehole for which the village headman mobilized in kind contribution from the residents in his village.¹⁷⁰

¹⁷⁰ Some NGO, government and donor funded projects are based on the capacity of the community to make in kind contribution of materials and labour time at least 10 per cent of the project cost (cf. Jimu 2008).

To go beyond this expectation, welcoming new people in the villages is perceived as a sign of strength because in the past the strength of the village was equated with the number of people living within the perimeter of that village. Mitchell observed that many ethnic groups in Malawi are quick to point out to a neophyte headman that “A tree cannot grow without branches” (Gluckman et al 1949: 95). This claim is appropriate to the passing social formation. As Martin Chanock writes, “People grapple with the present not in terms of ideas about the future, about which they knew nothing, but in term of ideas about the past, recast in the heat of present experiences” (Chanock 1985:22).

Some original settlers and village headmen are slowly realizing that what they consider as development is eventually recipe for widespread feelings of loss of sense of belonging. Even families of village headmen are affected. As Salima, a nephew to one village headman put it, “We, with our meagre income we can relocate to other places like Ntenjera. This is where we can build houses befitting our status.” The ideal is to maintain the village headman’s house, but other members of his family can relocate. In Chikowa village, the village headman is described in derogatory terms as *mkamwini* given that he lives in the section of the village associated with the family of his wife. In other words, he lives uxorilocally within his matrilocal village. Besides that, most of his kin live in rented houses because they do not have land on which to build own houses. Also, they do not have the means to buy back or buy new land. As he described the situation of some of his nephews and nieces: “People living over there sold all the land they had. I tried to advise them not to sell all the land, but that they should retain some for their own use. No! They would not listen. They sold all the land and now they live in rented houses as if this is not their own home village.” These sentiments underscore the fact that there are hidden or unanticipated costs to selling land, which include challenges of the local villagers to keep or build homes, weakening or shift of relationships and social links, and eventually competitions for authority over traditional leadership (cf. Cohen and Dannhaeuser 2002: xvii on development in practice).

It would appear that poverty is making traditional leaders, village headmen in particular, vulnerable and sometimes open to manipulation by outside others. There is need for more evidence on this aspect. I will dwell on some disconnected incidents that typify the emerging relations. First, Master bought a piece of land at K90, 000.00 a couple of years ago from one

village headman. He claims that he paid while grumbling because to him the price was rather too high. He had to pay for it because he felt he needed it for his business. The village headman, who has since sold most of his land, comes to Master several times each month or year to solicit for food or money to buy food. The challenge is, as Master sees it, people selling land and the village headmen rarely prosper no matter how high the price of the land could be, which also implies that in a general sense the selling of land often leads to dire poverty, if not destitution. Another case relates to the selling of sacred places, here used with reference to grave yards described in an earlier chapter. One village headman described the selling of land as selling chieftainship. As he put it, “Imagine if 15 people buy land and lease it, ‘Will I have authority over that land?’ It is not possible given that the moment land is leased it ceases to be customary land. Selling land means giving away chieftainship.” This position also relates to the point Englund (2002b) advances in the context of Lilongwe that the public recognition of headmen’s authority is by no means obvious. He adds that the difficulties partly derive from convictions that “in town” (*ku tawuni*) is beyond the reach of any headman’s authority. The irony is mediated by control over access to sacred spaces, the graveyards. Selling graveyards makes the position of village headmen even precarious given that in many emerging urban areas it is the control over access to graveyards and authority over funeral arrangements that make the sociopolitical position of the village headman visible, feared or respected. As John Chome observed in Mbayani Township of Blantyre, village headmen are known and respected due to the place they hold in relation to administering cemeteries. For this reason every death is reported to the village headman who gives authority for burial in the village cemetery. Authority to bury the dead is given only to those who are known to the village headman through the register. Strangers, those who are not in the register, are not normally allowed the privilege to bury their dead in the cemeteries. Registering with the village headman is figuratively known as buying burial space (*kugula manda*) (Chome 2002:44).

Selling chieftainship is also a decisive sociopolitical metaphor.¹⁷¹ In many peri-urban villages there are either rival claimants to the position of the

¹⁷¹ Pauline Peters has cautioned against “the dangers of over-privileging notions of flexibility and negotiability in the social relations around land” and goes on to suggest the “need to assess ongoing processes of exclusion and the production of winners and losers” (Peters 2007:23).

village head or the holder is alleged not to be legitimate. In one of the villages the current holder is alleged to have bewitched a brother to ascend to the position. Later, this village headman suffered stroke. He is partly paralyzed on one side of his body. The illness and paralysis are attributed to one of his own nephews (sister's son) who might have bewitched him. The alleged intention is to kill him and take over as village headman, given that the position is inherited matrilineally. Yet, in another village, the village headman later on declared that:

The substantive village headperson is my mother. She took over from my elder brother who passed away some years back. For some time my uncle (matrilateral parallel cousin to the mother) was acting on her behalf, but due to some disagreements she had the position passed on to me. My mother's real brother lives in another district. The main cause for the disagreement was how to account for money received as signing fees. The other problem was that he was going around the village telling people that he is the village headman, though he was only acting. There are other young men who claim to be the village headman.

The perception is that the practice of receiving signing fees in land transactions is recipe for some disagreements over the position of village headperson. The installation of one of the village headmen I interviewed for this study has been suspended after a rival claimant initiated legal proceedings against the incumbent headman.¹⁷² Other issues are low level of awareness, lack of clear succession plans and consensus, though the ideology of harmony is sometimes drummed. As the village headman Mbanga also noted: "Most of the village headmen are ignorant. The situation could have been different if the village headmen were well informed and educated. This is not the case since these positions are hereditary. The position can go to anyone within the family, even the person who is sometimes considered morally unstable and a monster (*chimbalangondo*). It is for this reason that sometimes things appear not to go well. It is only the clever ones who are able to discern what to do and what not to do."

¹⁷² Based on information received from informants after the closure of my fieldwork. The ceremony has been put on hold after thorough preparations were made, including the buying of a special cloth for the day in order to make it colourful and memorable (*kalala*).

Conclusion

It is apparent that peri-urban land sellers have quite different objectives. The decision to sell land is often based on the assumption that instant income from it would alleviate financial crisis or lead to prosperity. For some entrepreneurial minded land sellers selling land provides capital by which they seek social mobility. Building better houses, acquiring the motor vehicle driver's licence and sometimes buying lorries appear to be viable and attractive options. There are to be seen gender and age based biases. While both men and women build better houses, only men, and young men in particular, buy driver's licences and lorries. Even the operation of lorries is also dominated by men as drivers and lorry boys. Yet, selling land leads to some level of loss of means of livelihood for both men and women (cf. Sikod 2007 for gender bias) and sometimes to involuntary relocation, especially after the land money has been 'eaten', which is the metaphor for unwise expenditure. A point to be emphasized is that where the selling of land is motivated by the strategic desire to make ends meet, that is, meet cash flow problems related to paying school fees, medical bills or buying fertilizer for food production purposes or coffins; many land sellers realize afterwards that selling land is not the best strategy against vulnerability to financial stress and the apparent unequal access to opportunities. Therefore, the selling of land actually entails new forms of land alienation and conflict, relations of inequality, and to some notable degree the subordination and exploitation of the poor peri-urban villagers.

The other important dimension is the view that land needs to be seen in its connection to other aspects of social, economic and political life as it makes less sense in isolation (cf. Meur and Lund 2005). Already Cotula (2007) pointed out the need to link land issues to demographic change, urbanisation, and commercialisation of land relations, which tend to push towards land management decisions being taken more and more at a family or even individual level. Here is an important observation that land scarcity progressively leads to a redefinition of the land claims of different groups, with weaker groups, including women and orphaned children, becoming more vulnerable to losing access to land. Studies on livelihoods security and rural-urban interconnections have demonstrated how the loss of access to land sometimes relate to distresses caused by drought or other disasters (Lund et al 2006) which quite often force people to sell off assets including

land. Furthermore, as this chapter has also shown, there emerge tensions between older generations traditionally controlling land access and younger generations left with more limited land access opportunities (see also Cotula 2007). Even the sociopolitical position of village heads is sometimes tenuous. Unlike the Ghanaian case where land transactions disproportionately benefit the traditional elite who have powers to sell land at the expense of small scale farmers and stranger buyers (cf. Ubink 2008), in peri-urban Blantyre the situation is that all the actors claim and appear to benefit in their own way. However, given that land is not increasable, non-renewable, and central to both material livelihood and the politics of belonging (cf. Lentz 2007 for a similar point) peri-urban land transactions are eventually accelerating the creation of the landless, and also magnifying perceptions of socio-economic inequality between the land sellers and the land buyers. The situation described in this chapter suggests, as de Haan (2010) also observed, the need to re-reflect on actor-oriented research given that it tends to be too optimistic. Caught in the contradiction between needing cash income and alienating land, some sellers and their descendants are already regretting having disposed land at bargain prices some years back, and now they have to rent and sometimes struggle to buy land elsewhere. The next chapter brings this ethnography to its end.

Epilogue on peri-urban land transactions

Introduction

This study has unpacked a bundle of relations involved in peri-urban land transactions, the processes and practices in particular, as they are experienced in everyday life. In the interim it can be argued that land whether as inalienable or as alienable resource plays a significant role in the social and economic life of many people in peri-urban areas of Malawi. Various practices described in the previous chapters reaffirm this, but also go on to draw attention to changing land relations at the peri-urban village level as an outcome of habitual iteration on the one hand and judgment and imagination on the other. The commodification of peri-urban land does not imply that peri-urban land circulates as moveable commodities or gifts would, but that different actors' relations to the land undergo transformation relative to the intentions, interactions and strategic actions involved in the course of selling, buying and legitimating transactions. Perceived as responses to everyday reality the transactions are in essence responses to changing needs and aspirations that are embedded with a wide range of social and economic relations. In this final chapter I will be revisiting the practices and the relations. The key concern is to highlight the intentionality of the actors. A point that merit emphasizing is that peri-urban land transactions are a practice that produces its own social space and within that space creates its own normativity. Then I will proceed to outline some tentative conclusions.

On the Practices and Relations

It is not by accident that customary land in the peri-urban villages of Malawi is treated as a commodity. The shift from practices that privilege inalienability of land to land as a commodity is partly due to rising demand for such land and consequently the rising land prices. High land prices are contagious given that they make it more attractive for cash strapped customary land holders to consider selling part or all of their landholding. Over time the selling of customary land is expanding further outward leading

to more or less individualized ownership over an expanding peri-urban field. The ultimate stage is the acquisition of the land lease from the state by the new land owners. This transition makes for different levels of legitimization given that in the new dispensation individuals seek advantage for themselves and also for their immediate families, even if such gains might be attained at the expense of the different others.

The main questions addressed in this book are how do the peri-urban villagers make their choice to sell or not to sell land? How to explain commodification of land and the forms it take given that there are no clearly defined cultural and analytical boundaries between land tenure and other institutions such as kinship, social obligation, family law and the economy? To answer these questions this book has relied on data obtained through in-depth engagement with the actors, participation and observation, and interviews with different actors in the peri-urban villages of Blantyre. I have also analysed the sale agreements and other records. Such analyses have opened answers to some more questions, namely: Who is involved, not involved and how? What are the common disputes that arise, and how are such disputes mediated? And, how do the sellers reorient their ways of earning a living?

The commodification of customary land takes place in a context of change. Some of the basic changes have to do with different understanding of the place and relevance of kinship and belongingness, different experiences and exposure to the growing scarcity of land, scarcity of basic building materials vis-à-vis preference for 'modern' houses with corrugated iron sheets, faltering beliefs in power, presence and prominence of ancestral spirits and proximity to the city. Most land sellers claim to be autochthones, descendants of original settlers (*mbadwa*), while the buyers represent a new wave of 'incomers' or 'strangers' (*obwera*). Unlike the localized strangers, those already established as residents in the villages and who might have acquired land by begging or gifting some decades or even a couple of generations ago, the new strangers enjoy the right to sell or resell the land. The land rights acquired by purchase in effect and widely regarded as absolute.

The decision to sell or resell land is often linked to financial problems experienced by a current landholder. For the local peri-urban villagers, sometimes the wish is to sell land then use the proceeds to buy land elsewhere far from the city where they could continue with subsistence

farming. As land prices tend to be relatively low with increasing distance from the city, the land that could be acquired at the same price or relatively lower price further away from the city could be twice or three times bigger than the one sold in the areas closer to the city. There is a perception that whenever clever villagers sell land close to the city they buy up land elsewhere. However, the buying of land elsewhere is rarely pursued due to the fact that what prompts many peri-urban villagers to sell land is sometimes life threatening problems that require immediate financial solution. For instance, one of the pressing challenges is the need to raise money for medical bills. Other problems may include the need for money to pay fees for school going children or the purchase of a coffin in case of death of a beloved one. Among the young men selling land supports consumption, for example, consumption of locally brewed beer within the villages or imported beer at the bars, lodges and pubs. Young men are increasingly becoming aware by default that they too can afford the luxury of consuming beer spiced with commercialized sex and periods of absence from the village, what they refer to as taking or going on holiday. Taking a holiday entails staying away from the village for a week or more, usually at a big trading centre to 'eat' the land money. Yet, some villagers sell land in order to raise money needed to acquire a driver's licence or to buy a lorry. Compared to better houses and motor vehicle driver's licence, buying a lorry is especially attractive. Running a lorry is a relatively reliable means of generating and accumulating wealth after disposing off wealth in land. Like other phenomena in the recent decades, the selling of land is facilitated by the mobile phone, which is also one of the objects of local consumption. In this regard the peri-urban villagers are active players in the global consumer movement.

The stories told in the preceding chapters offer a new way of seeing peri-urban land relations, especially how villagers have been positioning themselves. On one hand, being rooted in a place is no longer dependent on having long ancestral connection to that place as the transactions are eventually leading to loss of land for subsistence farming and for residence among those with long ancestral connection to it. The selling of land calls into question the basic canon of customary land ownership system, namely: that the land ultimately belongs to the community and cannot be alienated, that within the community individuals have security of tenure for the land they require for the hut or house and gardens, and that no member of the

community can be without land or landless (cf. Bohannon and Bohannon 1968; Durand-Lasserve 2004; Kenyatta 1971; Migot-Adholla et al 1991). Those who have been relying on renting land for farming are eventually finding it difficult to find land that they can use on rent. Land that was once communal, in the sense of being open to all the people at the village level is eventually out of reach once the village headmen or someone in the village has sold it. The socioeconomic impacts are sometimes enormous given that the loss is permanent, at least in the life time of the concerned actors. The impacts are in some cases mitigated by other income earning opportunities. For instance, piece work (*ganyu*) in the transport sector, which flourishes partly due to the rise in peri-urban sales of land. So too are seasonal activities such as brick making and sand mining. There is also a boom in unregulated vending of cement, though it involves malpractices such as overcharging and selling of underweight bags. At the very basic level are various *ganyu* opportunities such as drawing water often done by women only, gardening often done by men and excavation of trenches for septic tanks. These activities are eventually drawing a large number of people and labour time. The question becomes whether selling land implies irreversible activity reorientation from farming to non-farm based livelihoods.

It would be correct to suggest that this is the case if consideration is confined to reorganization of social and economic relations within the families, whereby young people are increasingly taking up *ganyu* as the main occupation. But, women and the elderly men who have some land continue with farming. Those without land of their own but are interested in subsistence farming rent fields in the villages within and further away from the city limits. For those who sell land close to the city in order to buy up fields away from the city, relocation is an attractive option, but many chose to stay on while cultivating the fields located some kilometres away. This arrangement gives them the advantage of continuing to enjoy the advantages that proximity to the city provides. Given low wage rates in *ganyu* and the seasonality of some income earning activities, many families cannot survive solely on *ganyu*. Hence, the ideal is straddling, which takes either the form of occupational specialization at the family level or some form of multi-tasking. Numerous studies in sub Saharan Africa, Latin America and in transition economies of Eastern Europe in the 1990s and recently have demonstrated sufficiently that individuals and families are rarely dependent on just one source of food and income, let alone solely on agriculture (Manona 2001;

Scoones 1998, 2009; Zoomers 1999). Multitasking entails combination of various material resources, including farming and non-farm sources of income. The diversity in what people can do takes different forms in different contexts and for different reasons. As Hussein and Nelson (1998) suggest, activity diversification is structured by a wide range of motivations, restrictions and opportunities. It is in some cases the means to enable accumulation for consumption and investment. In other circumstances it is a strategy to spread risks or to cope with temporary crises. It is also ideal as adaptive strategy to long-term declines in income or entitlements. In the context of peri-urban Blantyre, it would appear that multitasking is largely a strategy to spread risks. After selling almost all the land the intentionality and creativity invested in multitasking varies across individuals and the family units to which they belong.

On the viability of multitasking, Bryceson (1999) offers a critique of how multitasking weakens rather than strengthen productivity by detracting individual and households' achievement of higher agricultural productivity through the diversion of labour and capital. In other words, income diversification sacrifices the gains of specialization in favour of spreading risks. In this view income diversification is not a decisive step forward, but rather a fumbling attempt to 'make do' in a severely deficient economic environment (Bryceson 1999). Multitasking or diversification fails to confront the accelerating process of change characterized by the erosion of an agrarian way of life. Theoretically, preoccupations with the struggles of individuals and households to diversify their livelihoods distract analytical attention from the longer and the broader changes being brought about by the commodification of land and the process of proletarianisation (cf. Francis and Murry 2002). Nevertheless, it would be correct to agree with Leo de Haan that, "Many livelihoods are without doubt harsh and tough but actors find a certain satisfaction in them and attain self-realization. Even in cases of survival at a very basic level of existence, the determination of the pro-active actor catches the eye of the reader as if the researcher wants to demonstrate that surviving is an art. A rosy picture is implicitly being sketched" (de Haan 2010:104).

Looking at the selling of land from the disputes perspective, what happens when people sell land, especially the questions over the right to sell land and the determination of boundaries, selling land provides an opening through which one can appreciate latent histories of land ownership and

boundary formation and transformations. The notice in the DC's office in Blantyre discouraging the selling of land is a veiled acknowledgement of both the prevalence of land disputes, and the challenge that the state encounters in relation to handling such land disputes. However, from the everyday practices and relations encountered in peri-urban Blantyre, land disputes are informative in two broad ways. First, they tell how histories of land ownership relate to the process and order of settlement, land gifting and how transfers of this nature were negotiated or structured. Second, they bring into focus changes in the perceptions and values attached to land among customary land holders with the passage of time. These aspects come to light in the process of selling land when reference is often made to who was the first known person to open a particular land to cultivation, who are his or her relations or descendants to the present, and the question about whether there are other contending claims to the right to own and to sell particular parcels of land. Claims are either confirmed or challenged by asking the elderly (mainly the village headman who may not be older than the contending parties) to confirm or reject particular claims. What matters most is the position of those among the living who can persuade others to think and accept that their ancestors pioneered the place (cf. Shipton 1994). The pioneer primacy has dichotomizing effects, given that it is the cause and sometime simply the basis of some disputes. Even on the basis of some unreliable information some young men among those who consider themselves to be descendants of original settlers exploit their alleged privileged position within their matrilineal family set up to sell land used by their families in the past and sometimes to grab land from families of strangers in order to sell to new strangers. This tendency emphasizes the temporality of strangers' rights in land. As Mann (2007) suggests, it underscores the idea that from the position of custom land cannot be alienated permanently or granted to strangers in perpetuity.

A focus on land boundaries shows traces of change and continuity. Boundaries that have been respected are sometimes contested and new boundaries formed. Boundaries formed and accepted by owners of respective parcels of land who are related by bonds of kinship or social ties based on proximity and residence in the same place are sometimes challenged and new positions drawn. Stone posts, trees and footpaths continue to be important boundary markers. New boundaries are now marked by beacons and sometimes brick wall fences. The ideal is to have

them surveyed and mapped for the purpose of formalizing ownership, but not the transaction itself.

Further, this book has explored the ambivalent position of different actors. Here interest has been on the roles of the sellers, buyers, village headmen and intermediaries. As has been shown at various points, the list of actors includes state institutions like the police, the courts of law, the district commissioner, and the legal aid officers, just to mention some. For the sellers, buyers, traditional leaders and intermediaries, these positions are not mutually exclusive given that the seller in one transaction could be the local estate agent in another, and the village headman in one transaction could be the buyer in another sense. Both the local and urban estate agents draw on various normative orders, including the state law and customary practices. The relationships among the actors are characterized by trust and mistrust at another level. There are situations when the work of the estate agents is perceived as that of the conman. The complementary and contradictory positions assumed by actors suggest the need to go beyond the victimhood of any one set or category of actors. Even with the uncertainties and insecurities, there is need to guard against what Francis Nyamnjoh in the context of research on globalization, mobility, citizenship and xenophobia in contemporary southern Africa refers to “predicament-oriented ways of theorizing and researching contemporary peoples and their communities” (Nyamnjoh 2006:3). This is so because outcomes in peri-urban land transactions are subject to the actors’ capacity to think about and to reflect on their actions and to make and seek meaning in strategic ways. As Haram (2004) also suggests, one would be right to think of the actors as agents responding to life situations, however adverse in strategic manner in an increasingly troubled world. It is evident that actors co-produce intersubjectively the emerging forms of land transfers. Contours of custom and normality are negotiated while also pursuing strategic self-interests. The actor-oriented perspective, as used in this thesis, offers scope to explore how the participants are locked into negotiations over ownership, modes of transferring land, the meanings and legitimacy of the practices.

Much recent attention on land tenure in Africa has been on foreign land acquisitions. Although my thesis is not comparative in that direction, there are a number of remarkable parallels between the colonial acquisitions of land described in chapter 1 and the on-going practices in the peri-urban villages. The most remarkable aspect is the position of traditional leaders or

chiefs. Then land was exchange for trade goods, which the chiefs alone; not their subjects, enjoyed. In the present situation chiefs and mainly village headmen, play the role of witness since the role of the seller is performed by the subjects. There is an apparent misrepresentation of the facts as the convectional discourse seems to suggest that chiefs and village headmen are selling land. In practice the family even as an ambiguous social unit is the primary reality on which decisions are based. The mode of payment is cash, but it does not exclude barter. Poverty (*umphawi*) as opposed to wealth (*kulemera*) in its multifarious forms, more especially the hunger for cash (*kusowa kwa ndalama*) and inability to defend land rights against rich and powerful individuals, all appear to play some role, but in a more negotiable way. As mentioned at various points, vulnerability to food insecurity, disease and want compel the peri-urban villagers to sell land. Village headmen do benefit materially through cash payments from both the sellers and the buyers, but the amount of benefit is negotiable and sometimes negligible. In addition, just as the colonial settlers had the chiefs sign charters transferring land in perpetuity, so too are the land sellers and traditional leaders in the contemporary processes required to sign sale agreements, which in effect imply the transfer of land rights to the buyers. Some of the land buyers proceed to apply for land lease with the postcolonial state, and through that acquire private title to the land. The leasing of the land extinguishes customary rights.

Towards a new perspective on peri-urban land relations

This book has demonstrated the changing reality of peri-urban land tenure relations. As mentioned in the first chapter my work is not the first attempt to do so given that land tenure transformations have occupied scholarly attention; anthropological, historical, political and development interests in particular; for several decades (cf. Borras and Franco (2010); Cotula and Neves (2007); Cotula et al (2009); Diduk (1992); Goheen (1992); Haugerud (1989); Hebo(2005, 2007) ; James (2007b); Lund (1999); Moyo 2010; Peters 2002; 2007). As pointed out in the introductory chapter, anthropologists working on land tenure issues have since the 1950s focused on the colonial and post-colonial administrations' injudicious attempts to

clarify or code, modernize and change customary tenure.¹⁷³ In the economic and development discourse, in the 1980s partly in response to discussions of the agricultural crisis,¹⁷⁴ land tenure became a crucial policy issue. Since then wide ranging discourses in different disciplines have highlighted the deficiency of assumptions purporting to the existence of plentiful land in Africa and that land is accessible to all, and actually suggest that land reform is not the solution to resolving questions of lack of access to land (Haugerud 1989; Peters 2002, 2004, 2007). In response to global trends more recently, attention has turned to large scale foreign land acquisitions, “the foreignisation of space” (Zoomers 2010), an aspect that is talked about vigorously but one that has not yet been explored adequately.

This book adds empirically to the long drawn discourse on land by drawing attention to the practice of selling and buying of customary land, which is eventually becoming part of ‘custom’ in many peri-urban areas of Malawi. Custom as used here is malleable. Land is not distributed free of charge, if not sold, it is rented out in return for some monetary payment. As the practices described at length in the previous chapters suggest, custom as applied to the emerging land relations is more dynamic, even though the new ways might appear not binding yet to be referred to as custom if perceived as unchanging ways of ordering and managing social affairs. The view advanced here is that routinization of practices that suggest acceptance of change by those affected is part of the process of changing elements of land tenure eventually becoming part and parcel of custom. The nature of disputes encountered as part of that process draw attention to the need for close attention to contested understanding of custom and the sticky issues and strained relations involved among various stakeholders, including in this case original settlers and strangers and those occupying position of traditional leadership. The value of land as a source of livelihood and sustenance explain to a great deal the intricate relations and the politics of power and belonging that are also implicated. Inevitably the notion of strangers challenges the assumptions about national citizenship as a principal criterion for defining

¹⁷³ Max Gluckman and the Manchester School, among others, shaped the discourse by focusing on the political economic fundamentals in societies (see Peters 2002).

¹⁷⁴ A general discussion is available in Berry 1984; Binswanger and Townsend (2000). The difficulty has been to locate the source of the problem, that is, whether the ‘crisis’ is a result of lagging or insufficient agricultural production or whether it is part of a larger crisis of economic management, also associated with deficits in balance of payments, foreign indebtedness, inflation, corruption, and waste.

access to land. Taken collectively these dynamics point to one thing that peri-urban land transactions constitute a social space that structures its own normativity.

This book has attempted to adequately describe the situation in Blantyre, but the situation could be different in the peri-urban areas of the other Malawian cities of Lilongwe, Mzuzu and Zomba. A multi-sited ethnography (Falzon 2009) with even longer period of fieldwork could yield diverse and richer insights. In the meantime the events and ongoing practices described in the preceding paragraphs and chapters suggest that the subject of land will likely be one of the contentious matters in the years to come. As Pauline Peters observes for the rest of Africa, land has shifted up and down the list of priority topics, though it has rarely been completely absent (Peters 2007). Yet, as Allen Abramson suggests, traditionally anthropologists and other social scientists have set about the analysis of land as though it were a mere setting for other things, thus paying limited attention to the symbolization of space in land relations (Abramson 2000). This book highlights that the selling and buying of peri-urban land is not a value free process, and the land itself is not a neutral and passive object. Peri-urban land plays some role in the constitution and reproduction of social relations and identities of the actors, at least through different practices involved in the land transactions (Dear 1997:51 for the constitution and reproduction of space only). Also, distinctive representations, meanings and experiences of the actors suggest that space and society do not merely interact, or reflect each other (Valentine 2001) rather they are mutually constituted through individuals and also through collective experiences. The selling and buying, and the mediating, witnessing and legitimization of the peri-urban land transactions reveal how objectification and monetization of land relations generate, reproduce and transform sociality. The symbolism is evident in the use of written sale agreements, date stamps, and the value attached to 'better' houses with corrugated iron sheet roof, the driver's licence and also the vehicles that some land sellers are eventually able to acquire, all of which are connected to peri-urban land transactions. These aspects add meaning to the everyday practices, even though the actors may not share the same interpretation or may use the same practices and objects to justify contradictory claims and interests (cf. Lewis 2003:20).

Work on this book sets the pace for thorough research into the role of intermediaries. Other studies on land transactions, Briggs and Mwamfupe

(1999) for Dar es Salaam, and Rakodi (2007) for Kampala and Enugu, for instance, treated this aspect as limited to matching buyers with sellers. This book has gone a mile further by examining what bringing together of buyers and sellers entails. Paradoxical are the unequal ways the intermediaries, or estate agents as they are often referred to, relate to each other among themselves. There is also another dimension about the relations with established normative institutions such as the traditional leadership and the state. I have argued that the estate agents are motivated by self-interested economic agendas. The growing and persistent challenges of unemployment and limited alternative economic activities, lack of regulation to entry, minimal or almost nil capital requirements, and prospects of large financial returns, make it more attractive for many people in the peri-urban villages and the city to join or claim some niche as estate agents.

In the final analysis this book brings into relation three concepts, namely: commodification, custom and the peri-urban. Commodification, or commoditization, has roots in political economic theory and it captures the processes through which market integration takes place in peripheral and peasant societies (Benediktsson 2002; Alexander and Alexander 1995). For this reason most writings on commodification have focused on production or harnessing for the market of crops, cultural and natural resources other than land. Custom is problematic if perceived as implying unchanging traditions. The connection to commodification is that land as an object is subject to various customary based principles and notions that in effect serve to regulate access, use, control and also transfers of land. The contradictions are more apparent in emerging peri-urban land relations that are quite often contested not least on the basis of appropriate customary notions. The ways in which the transactions are legitimated suggest that characterising land as customary or non-customary is rather simplistic and inadequate if one is interested in understanding how residents and non-residents alike define access and disposal of land in peri-urban contexts. On the other hand, the notion 'peri-urban' harnesses the ambivalence of delineating rural and urban spaces, with the rural often misrepresented as the bastion of custom and traditions, while the urban is then considered less so and therefore modern. Peri-urban land transactions challenge this dichotomy. The commodification of peri-urban land reflects interests of various actors transcending the rural-urban divide. To some degree the transactions do not conform to the state's law on land. Neither do they entirely conform to any fixed understandings of

custom. Yet, if my findings are to be generalized, and this is an empirical proposition, the peri-urban villagers emphasize that the commodification of land draws on customary practices not in the sense of deriving from unchanging past, rather by building on it in rather elastic and negotiable ways that are eventually becoming recognized practices. For this reason there are few contradictions on the legitimacy of the practices at least where the undisputed customary provisions are satisfied. Notably the transactions contribute to incomes for the sellers and those involved in one way or another in legitimating the transactions, and to the availability of land for residential and commercial uses for those buying it. Different actors assign different meanings to the transactions given that land produces directly or indirectly part of their material and non-material needs. Against this backdrop free access to land as an idea and as a practice is eventually disappearing and control with respect to decision making over peri-urban land are gradually becoming individualized, thus divorced from broader kinship relations. In practice individual family units and members own the land and the prevalence of buying and selling appear to be reinforcing this emerging understanding. Taken to extreme land transactions are eventually leading to possessive individualism. However, given the multiplicity of actors and the diversity in practices, the concern should not be on who owns the land, rather who is involved in the transactions, on what terms and for what benefit. In this context notions about proper land relations are unlikely to be static. Everyday practices reproduce but also transform the underlying value systems in recognizable and sometimes in unmistakable ways. Eventually peri-urban land transactions become a practice that produces its own social space and that also creates its own normativity.

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“THE STUDY CHALLENGES CONVENTIONAL IDEAS OF VALUE IN STUDIES OF CUSTOMARY LAND IN AFRICA....SYMBOLS OF LEGITIMATION AND UNEASY ARTICULATION OF TRADITION AND MODERNITY ARE A KEY DIMENSION OF THIS STUDY.”

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“JIMU’S UNDERSTANDING OF LAND TRANSACTIONS AS A PRACTICE THAT PRODUCES ITS OWN SOCIAL SPACE AND CREATES ITS OWN NORMATIVITY IS CERTAINLY A CHALLENGE TO MORE CONVENTIONAL INTERPRETATIONS.”

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This book explores the changing land relations in the peri-urban villages of Blantyre in Malawi. It questions and debates how and why the peri-urban villages have become the locus of the selling and buying of customary land, the practices and also the relations involved. The book provides rich ethnographic insights on the commodification of land relations, custom, practices, disputes and social relations between land sellers, land buyers, traditional leaders, and intermediaries. The transactions draw strength from the growing peri-urbanization and monetization of social relations, both of which push towards land decisions at family and individual levels. Bigger groups like the village, clan or extended family have minimal, if not symbolic role only. Village headmen benefit materially by taking gifts (signing fee) rationalized by custom on reciprocity, while estate agents claim commission. Numerous constraints are negotiated about the ownership, rights to sale, multiple selling and the use and sharing of land money. Peri-urban land transactions offer scope for examining a wider range of social and economic relations, and the subtle ways in which the state infiltrates the everyday lives of actors. Overtime, the practices reproduce but also transform land relations in significant but less appreciated ways.

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